

**A REVIEW OF SOME OF THE CHANGES IN  
PROCEDURAL LAW IN THE DECLARATION  
OF MARRIAGE NULLITY (MITIS IUDEX  
DOMINUS IESUS).**

**Edwin OMOROGBE, JCD, Ph.D.**

Parish Priest of St. Paul Catholic Church  
and the Dean of Benin City.  
eddyomorogbe@yahoo.com

**Abstract**

*Pope Francis issued the Motu Proprio - Mitis Iudex Dominus Iesus on August 15, 2015, and it became effective on December 8, 2015. In this document the Holy Father reformed the procedure for declaration of marriage nullity. The document reordered and abrogated some canons in the 1983 Code of Canon Law. After the promulgation of this new law, some commentators have come to argue that the Holy Father has just made it possible to declare marriages null in the Catholic Church without the due processes being followed. Some media outlets have even tagged it as the new simplified way of getting a divorce in the Catholic church. Some Catholics are confused about the changes that have been made. Some wonder whether it has not completely eroded the traditional teaching on the indissolubility of marriage. It is in the light of these concerns that our research critically examined the Apostolic Constitution to identify some of the changes established and the implication for the understanding of the procedural law that all marriage tribunals are to strictly observed. In this paper, we brought out what is new and what has been reordered. We also stated the fact that the new law requires more direct involvement of the*

*diocesan bishop in the process of marriage nullity cases. The need in particular circumstances to further determine specific ways to deal with the newly introduced briefer process was noted in this research. The new law did not change the essential requirement for declaration of marriage nullity. It only simplifies it to make it faster, cheaper, and easier for both the Tribunal and the parties involved. We have therefore pointed out in this work the changes effected by the document and the obligation upon those concerned with marriage cases to observe the new procedural law for marriage trial. One of the principles of law is that favour should be multiplied or broadly interpreted. Given this fact, the tribunal must immediately stop automatic appeal for affirmative decisions in the first instance to the second instance.*

**Keywords:** Review, Changes, Procedural Law, Declaration, Marriage Nullity

### **Introduction**

This paper attempts to only discuss the essential parts of the new law. I shall be presenting a short discourse of some aspects of the new norm and then highlight the novelty in the reformed procedural law for marriage nullity. The reform of the nullity *process was meant to make the process quicker, less complex, cheaper, and more of a pastoral ministry that truly expresses the Church's institutional sign of mercy and a demonstration of Christ's gratuitous love towards those in difficult situations.* However, the reform is not meant to redefine the traditional understanding of the indissolubility of the marriage bond. Pope Francis is not promoting nullity of marriage, but the quickness of the processes as well as simplifying the process so that catholic couples who are in an irregular marriage may be reconciled with the Church and are not oppressed by the shadow of doubt for a prolonged period. It must also be noted that the standard for nullity declaration remains the same, moral certitude by the judge. Canonists must remain ever vigilant that this reformed process is not

abused. The reformed process is not a permission to be lax in the adjudication of marriage nullity. Every trial is a process in the search for the truth.

### **Innovations in the *Motu Prorio***

Innovations are not made for the fun of it. There has to be a process of discernment and consultation with experts. MI went through that process. So, to a large extent, the innovations in MI are fruits of listening to the Holy Spirit, discerning using human instruments, and the legitimate exercise of the authority of the Supreme Pontiff.<sup>1</sup> There have been previous changes to the procedure of marriage nullity in the Church.<sup>2</sup> So, a change to procedural law is not in itself an innovation in the sense that it has never happened in the past before.

**1. Single Executor Sentence in Favour of Nullity:** In the past marriage nullity trial needed two conforming sentences before the decree of nullity can be executed.<sup>3</sup> The Holy Father desire to see justice done expeditiously informed the abrogation of the requirement of the automatic appeal of an affirmative sentence in the first instance tribunal. This is one of the reasons for the simplification of the nullity process: “The need to *simplify and make the processes less complex* has led to making the ordinary process more simple”<sup>4</sup> MI has abrogated this requirement of a second conforming sentence before the execution of a decree of nullity. “There is no longer required a double conforming decision declaring the nullity of the marriage to enable the parties to be able to contract a new canonical marriage.”<sup>5</sup> Moral certitude is required for a declaration of nullity.

---

<sup>1</sup>See canon 332, §1. See, J. MCAREAVEY, “The Primacy of the Bishop of Rome: a Canonical Reflection in Response to *Ut Unum Sint*,” in *Studia canonica*, 34 (2001), 119-154.

<sup>2</sup>For a detailed study see, C.A. Cox, *Procedural Changes in Formal Marriage Nullity Cases from the 1917 to the 1983 Code. Canon Law Study*, no. 528, Washington, D.C., Catholic University of America, 1989.

<sup>3</sup>See canon 1641.

<sup>4</sup>*Subsidium*, no. 3.

<sup>5</sup>MI, art. 1.

For many years there has been the requirement of two conforming sentences for marriage nullity.<sup>6</sup> This abrogation of this requirement is a major contribution to marriage procedural law. The requirement of double conforming sentences was imposed to ensure that there was a thorough examination of the nullity. However, moral certitude that is required for marriage nullity declaration is still a high standard. What is required of judges in the first instance tribunal is to ensure that they attain moral certitude from the facts and law and not from sentiments or misplaced compassion for the persons involved.

**2. A Single Judge to act under the Supervision of the Bishop:** A diocesan bishop may constitute a single judge in the first instance but this judge must be a cleric. The bishop is to ensure that the clerical single judge acts properly following the norms of the procedures and must reach moral certitude before the declaration of a sentence.<sup>7</sup> MI empowers a diocesan bishop with the authority to be able to entrust a case to a single clerical judge without the necessity of the intervention of neither the Holy See nor the Bishop Conference of the country.<sup>8</sup> However, this should only be done when the possibility of a collegial judge cannot be attained or that there is no functioning tribunal. In other words, entrusting marriage nullity to a single judge remains an exception.<sup>9</sup>

---

<sup>6</sup>For a detailed examination of conforming sentences, see, MARY J. ARIRIGUZO, *Conformitas Sententiarum* (Conformity of Sentences) in *Canonical Doctrine and Jurisprudence* (can. 1614, n.1, CIC 1983; DC art. 291), Onitsha Nigeria, Eagleman Books, 2012. The author argues that conforming sentences is “one of the important elements formally introduced into the marriage nullity procedure to safeguard the bond of marriage.” *Ibid.*, p. 1.

<sup>7</sup>See MI, art. 2. See also *Subsidium*, no. 1.

<sup>8</sup>See *Subsidium*, I, no.1.

<sup>9</sup>It is important to always keep in mind the legal principle that laws which contain exceptions to the law are to be strictly interpreted. For a good reading of interpretations of laws that make exceptions, see, ROY REMO, “Sacramental Laws Containing an Exception from the Law,” in *Philippine Canonical Forum*, 23 (2011), pp. 209-245.

**3. The Bishop as a Judge:** In the previous legislation, a diocesan bishop possesses judicial power; he may exercise this power as a judge personally or through others according to the provisions of the canons.<sup>10</sup> MI stresses the theological and pastoral reason for a diocesan bishop to actually judge marriage cases himself. The Instruction for the implementation of MI also emphasizes the need for the bishop to personally judge marriage nullity cases, especially the briefer cases: “The Bishop in his Church, as father and judge, is the icon of Christ-Sacrament. Therefore, *he ought to be personally the judge*, by giving a sign of his sacramental power. This is true especially in the briefer process.”<sup>11</sup> This personal exercise of the judicial power of the diocesan bishop taught by the Second Vatican Council is to be brought out more fully when the bishop judges cases by himself.<sup>12</sup> The size of the diocese or the volume of work of the bishop should not excuse the bishop from this proper exercise of his judicial power.

---

<sup>10</sup>See canon 1419.

<sup>11</sup>Subsidium, p. 9. The Directory for the Pastoral Ministry of Bishops, no. 68 says: “The Bishop should observe and require others to observe the *procedural norms* established for the exercise of judicial power, since he recognizes that these rules are no mere formality, still less an obstacle to be circumvented, but are a necessary means for establishing the facts and for administering justice.” In THE CONGREGATION FOR BISHOPS, *The Directory for the Pastoral Ministry of Bishops, Apostolorum successors*, 2004, no. 68, English translation from the Vatican Website [http://www.vatican.va/roman\\_curia/congregations/cbishops/documents/rc\\_con\\_cbishop\\_ops\\_doc\\_20040222\\_apostolorum-successores\\_en.html#Chapter\\_IV](http://www.vatican.va/roman_curia/congregations/cbishops/documents/rc_con_cbishop_ops_doc_20040222_apostolorum-successores_en.html#Chapter_IV) (=DPMB). Therefore, diocesan bishops are to observe the new procedural law by personally judging marriage nullity cases especially the briefer cases.

<sup>12</sup>The Second Vatican Council in LG, no. 27 states: Bishops, as vicars and ambassadors of Christ, govern the particular churches entrusted to them (58\*) by their counsel, exhortations, example, and even by their authority and sacred power, which indeed they use only for the edification of their flock in truth and holiness, remembering that he who is greater should become as the lesser and he who is the chief become as the servant.(169) This power, which they personally exercise in Christ's name, is proper, ordinary and immediate, although its exercise is ultimately regulated by the supreme authority of the Church, and can be circumscribed by certain limits, for the advantage of the Church or of the faithful. In virtue of this power, bishops have the sacred right and the duty before the Lord to make laws for their subjects, to pass judgment on them and to moderate everything pertaining to the ordering of worship and the apostolate.” From the Vatican Website [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19641121\\_lumen-gentium\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html).

It is, therefore, the desire of the Holy Father that diocesan bishop judges marriage cases: “It is thus hoped that the bishop himself, be it of a large or small diocese, stands as a sign of the conversion of ecclesiastical structures and *that he does not delegate completely the duty of deciding marriage cases to the offices of his curia*. This is especially true in the streamlined process for handling cases of clear nullity being established in the present document.”<sup>13</sup> In fact, the briefer cases can only be judged by the diocesan bishop. The Judicial Vicar has to instruct the case properly before the bishop judges the case.

**4. The Briefer Process:** *This is one of the major innovations of MI.* It establishes a process for the declaration of nullity that is briefer than the ordinary process or the documentary process. Given the fact that the briefer process can endanger nullity, the diocesan bishop is solely charged with the responsibility of using this process.<sup>14</sup> This is because the diocesan bishop in union with the successor of Peter has the pastoral responsibility of guarantor of the Catholic unity in faith and discipline.<sup>15</sup>

The process can be used

in cases in which the accused nullity of marriage is upheld by a joint request of both spouses and evident arguments, being the proofs of the marriage nullity of rapid demonstration. With a request made to the Bishop, and a process instructed by the Judicial Vicar or an Instructor, the final decision of the declaration of nullity or of remitting the case to the ordinary process, belongs to the bishop himself, who by virtue of his pastoral office, is

---

<sup>13</sup>MI, art. 3 emphases are mine. The use of the word, “completely” would imply that the bishop can delegate some of the functions to another person. But he must be involved in the briefer process.

<sup>14</sup>The presumption is that the diocesan bishop is to promote the observance of the common discipline of the Church and ecclesiastical law. He must exercise vigilance that abuses do not creep into the discipline of the Church.

<sup>15</sup>MI, art. 4.

with Peter the major guarantor of Catholic unity both in faith and in discipline.

It is obvious that not all diocesan bishops are canonists, and even those that are may have many other pastoral commitments. The first point that needs to be noted here is that, judging marriage nullity cases using the briefer process is part of the pastoral ministry of a diocesan bishop. Secondly, a diocesan bishop must appoint an efficient judicial vicar who will personally help to instruct the case before it arrives at the bishop's desk.

Article 14 of MI lists instances in which the briefer process is to be used:

Among the circumstances of things and persons that can allow a case for nullity of marriage to be handled by means of the briefer process according to cann. 1683-1687, are included, for example: the defect of faith which can generate a simulation of consent<sup>16</sup> or error that determines the will;<sup>17</sup> a brief conjugal cohabitation;<sup>18</sup> an abortion procured to avoid procreation;<sup>19</sup> an obstinate persistence in an extra conjugal relationship at the time of the wedding or immediately following it;<sup>20</sup> the deceitful concealment of sterility, or grave contagious illness, or children from a previous relationship, or incarcerations;<sup>21</sup>

---

<sup>16</sup>See canon 1101, §2.

<sup>17</sup>See canon 1099.

<sup>18</sup>A false conception of marriage as an affective gratification can lead the parties to contract marriage without intending permanence.

<sup>19</sup>This constitutes an intention to stimulate the will against the good of children.

<sup>20</sup>This behavior is “an evident indication of the refusal of the obligation of the faithfulness; it can be accompanied by a refusal to have intimate relations with the legitimate spouse. Also in this case there can be documentary proofs (private investigative reports, letters, records of telephonic or electronic communications).” In *Subsidium*, III, no. 3.1.

<sup>21</sup>In these instances, the concealment constitutes deceit that can disturb conjugal life. The evidence must be incontrovertible, e.g., documentary proof; medical reports, certificates and civil sentences.

a cause of marriage completely extraneous to married life, or consisting of the unexpected pregnancy of the woman,<sup>22</sup> physical violence inflicted to extort consent,<sup>23</sup> the defect of the use of reason which is proved by medical documents, etc.

Documents in support of the petition should include all medical records which renders ex officio expert intervention superfluous. *Subsidium* states that the cultural situation of the parties when properly studied may yield some “elements which are strongly indicative of the invalidity of consent, which perhaps in a previous and different social-cultural context would not be recognized in all their significance.”<sup>24</sup>

Article 15 states that if the petition had been presented in the ordinary process, the judicial vicar if convinced that it can be treated with the briefer process, he is to notify the respondent if the libellus was not signed by the respondent. The notification is to inform the party of the possibility of using the briefer process. What this means is that the judicial vicar must try and sort out cases submitted in the past and see if anyone of them can be tried using the briefer process he is to transfer that to the bishop.

Article 16 stipulates that the judicial vicar can designate himself as the instructor or name another person. The parties are then to be cited and informed that they are to make available the specific points on which the witnesses are to be questioned. A time limit of three days is to be imposed. If the witnesses have already made depositions during the ordinary process the materials can be used in the briefer case (see art 17). The parties may be present at the time of examination of the witnesses unless there is a reason for the instructor

---

<sup>22</sup>If the reason for marriage is not for the purpose of interpersonal donation of life between the parties the possibility exists that one of the party did not intend marriage. The indicative circumstances could be brief conjugal life and the initiative to separate and divorce. See *Subsidium*, III, no. 3.1.

<sup>23</sup>Fear affects the will and can validate marriage. In these cases of physical violence, there should be documents such as medical reports, written police records. See *ibid*.

<sup>24</sup>*Subsidium*, II, no. 3.

to determine otherwise. The responses of the witnesses and parties are to be summarily written by the notary (see art 18). The need for a well-trained notary cannot be over emphasized, especially in communities where the faithful are not literate.

Article 19 addresses the issue of the diocesan bishop who is to pronounce judgment in cases emanating from an inter-diocesan tribunal. The competent bishop is the bishop of the tribunal of the place in which the marriage was celebrated, or the tribunal of the place in which either or both parties have a domicile or a quasi-domicile; or the tribunal of the place in which, in fact, most of the proofs must be collected. These tribunals all have equal competency.

The law leaves the determination regarding how to pronounce the sentence.<sup>25</sup> The sentence is to be signed by the bishop and notarized. It should contain reasons for the decision and the parties are to be notified within one month of the day of the decision (see art 19). It must be noted that the briefer process itself is a judicial trial and not an administrative process, therefore, “the nullity of the marriage can be pronounced only if the judge has arrived at the *moral certitude*<sup>26</sup> based on the acts and of the proofs that have been gathered.”<sup>27</sup>

**5. The Appeal to the Metropolitan See:** This ancient practice of appeal to the Metropolitan is to be restored in the marriage nullity trial. This brings out the office of the Metropolitan as the head of the ecclesiastical province.<sup>28</sup>

**6. The Role of the Episcopal Conference:** A Conference of Bishops, as a rule, is a permanent institution of a group of bishops in a country

---

<sup>25</sup>Canon 1612, §1 provides that the sentence begins with the invocation of the Divine Name. The pronouncement of the judgment of the diocesan bishop in the briefer case may follow this pattern.

<sup>26</sup>Canon 1608, §1 stipulates that any marriage sentence must have moral certitude about the matter to be decided. The certitudes must be derived from the acts and proofs.

<sup>27</sup>Subsidium, no. 3.

<sup>28</sup>The Code in various occasions describes the function of the Metropolitan. Canon 435 describes the notion and canon 432, §1 discusses the competency of the Metropolitan in relation to the suffragan dioceses.

or a certain territory that exercise authority jointly over the faithful entrusted to them.<sup>29</sup> One of the purposes of setting up a Conference is that there should be a certain degree of uniformity in the territory that they exercise authority over. The decisions of the Conference of Bishops are to be a juridical binding force on the faithful subject to them.<sup>30</sup> The Conference should help to put into practice the reform of the matrimonial process for the sake of uniformity in a country.<sup>31</sup> The Conference should work with judges to ensure just and fair remuneration of the workers in the tribunal. MI stipulates “that processes remain free of charge, and that the Church, showing herself a generous mother to the faithful, manifest, in a matter so intimately tied to the salvation of souls, the gratuitous love of Christ by which we have all been saved.”<sup>32</sup> The Instruction for the implementation of MI seems to indicate a voluntary offering or donation by the parties<sup>33</sup>: “It is left to the just sensitivity of pastors and those responsible for tribunals the possibility of asking the parties, with pastoral tact, to contribute with an offering for the needs of the poor. The parties will certainly be generous, such that the fragrance of charity will reach the minds and hearts of the faithful in the Church.”<sup>34</sup>

**7. An Appeal to the Apostolic See:** The right of the individual to always appeal to the Apostolic See is retained in the new apostolic constitution. The competent tribunal remains the Roman Rota to hear

---

<sup>29</sup>Canon 447 describes Conference of Bishops. For further reading on Episcopal Conferences, see, A. Acerbi, “The Development of the Canons on Conferences and the Apostolic See,” in *The Jurist*, 48 (1988), pp. 146-152; A. Dulles, “Doctrinal Authority of Episcopal Conferences,” in *Episcopal Conferences: Historical, Canonical and Theological Studies*, editor t. Reese, Washington, D.C., Georgetown Univesity, 1989, pp. 803-103.

<sup>30</sup>See CD, no. 38, no.4.

<sup>31</sup>Canon Law Society of Nigeria has already set up a group to work out a *Vademecum* to be presented to CBCN for approval for use in Nigeria. Canons 447-459 deal with Conferences of Bishops.

<sup>32</sup>MI, art. 5.

<sup>33</sup>The law always prefers voluntary donation over taxation or levy. Canon 1262 on free donation comes before canon 1263 on taxation. The intention of the legislator is to show that taxation should only come after free will donation., see, R.T. KENNEDY, “The Acquisition of Goods, [cc. 1259-1272],” in *CLSA COMM2*, p. 1461.

<sup>34</sup>Subsidium, no. 4.

cases of appeal of second instance from dioceses. The law regulating the Roman Rota will soon be reviewed to meet the new law.

**Below is a Summary of the Essential Parts of MI**

1. The diocesan bishop is the sole judge for briefer cases of marriage nullity
2. The diocesan bishop can appoint a sole judge in the first instance tribunal
3. The abolition of the obligation of having two conforming decisions
4. Establishment of a briefer procedure for marriage nullity that is manifestly null
5. Tribunal service fee to be considered or reviewed for a possible voluntary donation rather than a mandatory fee.
6. Establishment of service of information, of counselling and of mediation office connected to the pastoral service to help evaluate persons for a preliminary investigation for matrimonial nullity cases. This office will help to gather enough materials for possible nullity trial. This office may be established at deanery levels too.
7. Diocesan bishops are now empowered to withdraw from the inter-diocesan tribunal if they judge that such an action will be more beneficial to their faithful (MI, Procedural Rule, art. 8, §§ 1-2).
8. The probatory value of the declarations of the parties and the qualified witnesses has been valorized.
9. The requirement for a letter from the parish priest of the petitioner indicating pastoral attempts at reconciliation had failed is no longer required. It is sufficient that the Judge before accepting the case has the certainty that the marriage has irreparably failed and impossible to re-established conjugal life (MI, can. 1675).
10. The process of passage to super ratio has been simplified i.e., ratified non- consummated
11. A party that refused to receive any kind of information during trial is held to have renounced the right to receive a copy of

the sentence (MI, Procedural rule art. 13). After the time limit of the appeal has elapsed the first sentence can be executed.

12. If an appellate tribunal consider the appeal to be dilatory, it must confirm the first instance sentence by a decree
13. Two lay judges are now allowed in a college of three or five judges
14. Competency of tribunals are now equal; the place of marriage, the domicile of respondent or petitioner all have concurrent competencies. There is no need to obtain the consent of any JV.

#### **Conditions for the use of the Briefer Cases**

- a. The alleged nullity must be sustained by the joint request of the couple and with evident arguments. Testimonies or documents render manifest the nullity. There should be a prejudicial investigation before (MI Procedural Rules, art. 14).
- b. The diocesan bishop alone is the sole judge and he cannot delegate this function to a diocesan or inter-diocesan tribunal. Even when a case is instructed by an inter-diocesan tribunal the bishop is competent to adjudicate using the briefer process as the bishop noted in canon 1672 (MI, Procedural Rules art. 19). The bishop having consulted the instructor of the case and the assessor, weighs the observations of the defender of the bond and defence briefs of the party (optional), and if he can arrive at moral certitude he will issue a sentence of nullity. If he is not able to arrive at moral certitude he remits the case to the ordinary process. The sentence may be drafted by the assessor or instructor but it must be signed by the bishop. The parties are to be notified of the sentence within one month. There can be an appeal against the sentence of the bishop to the metropolitan and if it was the metropolitan then the appeal is to the most senior suffragan bishop. Given the fact that both parties have to consent before the briefer process can be used, the likely person to appeal the sentence will be the defender of the bond. If an appeal is accepted the case is remitted to the ordinary process of the second instance tribunal (MI, can 1687, §§ 3-4).

- c. The Judicial Vicar is to work closely with the diocesan bishop in the briefer process. The JV is to examine the libellus addressed to the bishop and determine whether it should be sent to an ordinary trial or briefer process.
- d. The circumstances for the use of the briefer process are:
  - i. lack of faith that can generate a simulation of consent or an error determining the will;
  - ii. psychological and moral fragility of the contracting parties e.g., young or less immature - they consider marriage as a form of affective gratification. This can result to simulation or reservation of the exclusivity of conjugal act to a partner;
  - iii. Brevity of the conjugal life; abortion procured to impede procreation;
  - iv. The obstinate permanence in an extramarital relation at the time of the wedding or in the period immediately following;
  - v. The deceitful concealment of sterility or of a grave contagious sickness or of children born from a previous relationship, or of an incarceration;
  - vi. The extraneous reason for conjugal life or consistent with an unforeseen pregnancy of the woman;
  - vii. Physical violence inflicted to extort consent;
  - viii. Lack of the use of reason confirmed by medical documents

**Formal Elements to Initiate a Briefer Process**

- a. A request proposed by both spouse or proposed by one and consented to by the other;
- b. A libellus presented to the JV in accordance with the provisions of canon 1504,
- c. The libellus must expound briefly, wholly and clearly the facts upon which the request is based; indicate the proofs and the document upon which the request is based (MI, can. 1684). The gathering of the proof can be done in one session.

### **Documentary Process**

This is to be used for cases in which marriage nullity can be proven by incontrovertible document. The formalities of the ordinary process are omitted. A good example will be total lack of form case.

### **Recommendations**

Below are some recommendations that Marriage Tribunal and Judicial Vicars will find helpful:

- a. The desire of the Holy Father to have marriage cases expeditiously judged must be respected. This is a question of the right of the faithful and it must be protected. Each tribunal has to fashion out a way to do this effectively without allowing laxity to creep into the process.
- b. Each diocesan bishop must take a personal interest in the administration and funding of tribunal. The allocation should be made in the budget to accommodate the possibility of having cases free of fee for indigent petitioners.
- c. The tribunal must be well staffed with competent persons and the necessary technological aid to help in the processing of cases be put in place.
- d. A section to assist in dealing with the documentary process be set up within the tribunal. This section will help to exhort priests and lay faithful to send most of the total lack of form cases to the tribunal. This same section can help to advise the bishop on cases of *convalidation* and *sanatio in radice*.
- e. One of the principles of law is that favor should be multiplied or broadly interpreted. Given this fact, the tribunal must immediately stop automatic appeal for affirmative decisions in the first instance to the second instance. Even cases that were initiated before the new procedural law took effect must be assessed with the present norm that does not require automatic appeal for affirmative decision.
- f. A general review of all cases should be embarked upon to determine if some of them should be tried using the briefer process.

**Conclusion**

The new procedural norms should be implemented with respect to the substantive doctrine of marriage. Tribunal staff must not see this as an implicit approval for the nullity of the marriage bond without the standard requirement of moral certitude on the declaration of nullity. The presumption of law that favours the marriage bond still holds. The abrogation of the law mandating automatic appeal of affirmative sentence in the First instance is only aimed at the process and not at the substance of marriage indissolubility.