



Carlo Fantappiè, *Per un cambio di paradigma.
Diritto canonico, teologia e riforme nella Chiesa.*
Bologna: EDB, 2019, 191 pp.

The discussed scientific work by Carlo Fantappiè complements his two previous elaborations (*Chiesa romana e modernità giuridica* – 2008, *Ecclesiologia e canonistica* – 2015). The results of scientific research presented earlier allowed him to develop and express his own reflections concerning the situation of canon law and its role in the current situation of the Church. He aims to show the value of canon tradition in relation to theology as a reference point for present problems deriving from the situation of the Church, which result in considerable changes occurring in the Code of Canon Law. Thus, he indicates the insufficiency not so much of legal solutions but as, first of all, the code form, in which they are contained. He presents the causes of this state of affairs referring to historical circumstances, which led to codification in the Church. He shows both its positive and negative elements. Among the latter ones, he emphasizes the loss of relationship between law and theology. He points out that the return to close cooperation of law and theology in the Church is not only a temporary requirement but a desirable means, which in the past resulted in doctrinal unity affecting institutional reforms. In present times, the cooperation of theologians and canonists should focus on the issue of reforms in the Church introduced by Pope Francis. There is a need of doctrinal and institutional unity, which will be able to justify and influence the implementation of the changes.

Pope Francis, emphasizing the synodal character of the Church, which is its path, indicated the need of close cooperation of theology and canon law, while maintaining their own methodological and content autonomy. From this perspective, only the synodal path seems to be right for the implementation of reforms in the Church. It requires deepening of the synodal reality of the Church, which should lead to institutional solutions. Carlo Fantappiè points at

two essential areas of cooperation between theologians and experts on canon law. The first one concerns deepening and drawing on the richness of synodal tradition in the Latin Church and the Eastern Church, critical reflection on the variety of its forms, compatibility assessment with the current requirements and changes occurring in the society, suggesting new forms of expression. The latter one refers to initial doctrinal and institutional justifications, which underlie the undertaken reforms. Indicating the need of cooperation of theology and canon law, the author of the study refers to the history of great reforms in the Church, which were accomplished on the basis of relation between current problems and challenges and the creative power of its own tradition. He suggests looking at today's particular challenges in this way, seeking similar situations and solutions in the past, exploring theological doctrines, the Church's discipline and practice, indicating principles regardless of their application, justifying the undertaken actions.

The analysis of the situation and presented paths which should be taken in order to introduce reforms in the Church together with the changes occurring in the Code of Canon Law lead Fantappiè to present a new paradigm in the field of theology and canon law. The first one results from the necessity of cooperation between theology and canon law as an effective condition explaining and justifying undertaking particular actions. However, it is connected with the necessity to renew the view on canon law itself and the way of its expression in the code form, which has been influenced by contemporary legal sciences. In the next three chapters, the Author individualizes, discusses, and presents the results of these influences on canon law. Its consequence is distancing from or even breaking the links with canon tradition in the Church and adopting ways of reasoning characteristic for secular sciences. Critical reconstruction of the influence of modern ways of thinking on canon law in the historical dimension leads the Author not so much to indicating the reasons and understanding the current situation of canon law as to reflection aimed at overcoming them. Three new paradigms pointed out by Fantappiè are supposed to serve this purpose. The first one concerns regaining the flexibility of canon law. It can be done by restoring the meaning of legal principles as a source of the legal system in the Church, which will allow exceeding normative limitations of the codification paradigm. The second paradigm should concern balancing in terms of the sources of law and limiting them in terms of either sources of existence or knowledge to merely regulatory activity and its consequences in the form of legislative products. Balance between the sources should concern skilful use of both doctrinal and legislative as well as jurisprudence sources. The science of canon law faces the challenge of developing a hermeneutical theory of canon law in harmony with the methodology of theological sciences and dialog with the current doctrine of legal sciences. The last paradigm of new approach to canon law results from the two previous ones. Indicating legal principles and redefinition of interpretative

context emphasize the necessity to agree on a systematic and deductive method, which is at odds with hermeneutical and argumentative methods. The negative consequence of the codification paradigm was adopting abstract logic far from the particularity of the case being resolved. The new paradigm points at the method of topics and dialectics of decretists and decretalists in combination with jurisprudential approach of medieval popes, who paid attention to new situations and defined norms on the basis of the principles and values of canon law. This procedure would greatly emphasize the personalistic principle which lies at the foundations of Christianity and allows full implementation of justice, which is of specific character.

On the basis of his reflections, Carlo Fantappiè shows a new, possible form of the source of canon law, contrary to the applicable code. He suggests *Novum Corpus Iuris Canonici* harmonizing the law of the Latin and Eastern Church, containing general principles of law allowing their integration with the solutions of particular Churches and elimination of problems caused by the current code. Such a *Corpus* should be integrated with *Corpus Concilii* indicating close connection of synodal principles and the principles of canon order. The study by Fantappiè opens the door not only to scientific discussions giving rise to changes taking place in the Church. It is a specific suggestion concerning the possibility of prospective normative solutions, which are not limited by a short-term necessity. The law of the Church is first of all a theological phenomenon, whose source is in the structure of ecclesial community and which expresses it. As a theological experience it is a legal phenomenon. Carlo Fantappiè's conclusions only confirm this belief.

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