

## **Read this for Lesson 24 – Advanced Course on the Sacrament of Holy Matrimony** by Father John A. Hardon, S.J., revised and updated by Raymond Leo Cardinal Burke

### **1. Marriage**

The Catholic teaching on marriage, although built on the natural law, differs sharply from the earlier practices among the Jews and pagans, and also from the modern secular usage – to the point that no area of public relationship more clearly distinguishes Catholicism from other institutions of human society. It cuts across every aspect of the moral law and has implications in every phase of man's attitude towards God, so that marriage can truly be called the most revealing trait of the Catholic religion and almost the test of its validity.

The following two Papal documents provide essential explanations on the Sacrament of Matrimony:

- 1) Pius XI, On Christian Marriage, *Casti Connubii*, December 31, 1930. This encyclical gives clear teaching on marital indissolubility and the evil of contraception. It was the principle source used by the Second Vatican Council for its document, the *Pastoral Constitution on the Church in the Modern World (Gaudium et Spes)*, numbers 47-52.
- 2) John Paul II, On the Christian Family in the Modern World, *Familiaris Consortio*, November 22, 1981. This post-synodal apostolic exhortation, written after the Second Vatican Council, covers every important aspect of marriage and family life.

### **2. Nature of Marriage**

In the Catholic Christian view of life, marriage is more than a social convenience whose structure is shaped by the people getting married and the accidents of time and place where they plan to live. Its foundations go back to the origins of the human race and clarify that marriage was not instituted by man, but by God. When God created man and woman, He implanted in human nature the urge for the marital union and reproduction: "God created man in His image. In the image of God, He created him. Male and female He created them" (*Genesis 1:27*). The Hebrew word for man (Adam) is a

collective noun, referring not only to the first man but through him also to the race as a whole.

The Lord blessed the first human pair and, by a special revelation, gave them the divine mandate of reproducing their kind: "Be fruitful and multiply." This immediately raises the status of marriage, even before the time of Christ, to a level above the merely human and invests it with duties and a sublimity that could only derive from God.

In the Catholic Church, therefore, it is held as an immutable and inviolable fundamental doctrine that matrimony was not originated or restored by man but by God.

"Not by man were the laws made to strengthen and confirm and elevate it but by God, the Author of nature, and by Christ our Lord by whom nature was redeemed. Consequently, the laws of marriage cannot be subject to any human decrees or to any contrary pact even of the spouses themselves. This is the doctrine of Holy Scripture; this is the constant teaching of the Universal Church; this is the solemn definition of the Council of Trent, which declares and establishes from the words of Holy Writ itself that God is the Author of the perpetual stability of the marriage bond, its unity and its firmness." (Pius XI, On Christian Marriage, *Casti Connubii*, #5).

Every position which challenges the Catholic teaching on matrimonial consent, impediments to marriage, divorce and birth control (contraception) ultimately comes back to this stance of questioning the divine authorship of the marriage contract.

#### **Free and firm act of the will**

Although marriage is, therefore, of divine origin, the human will also enters matrimony in a way so intimate that without it the marriage would be null and void. In every marriage only two people join together in a conjugal union, so that unless they give their mutual consent they are not really married. This *free act of the will*, by which each party hands over and accepts those rights proper to the state of marriage, is so essential that it cannot be supplied by any human power. Few aspects of marriage in the Western world are more illustrative of the influence of Christianity than the assumed liberty of a man and woman to choose their own life-long spouse.

However, while the Christian enjoys perfect freedom about entering marriage or marrying this particular person, once he enters the marital state, the duties he assumes are entirely independent of his free will, so that after marriage the husband and wife are subject to the divinely made laws that govern matrimony. Nevertheless, the union is entered willingly and this fact joins the contracting parties and knits them together more directly and more intimately than their bodies; what unites them is not a passing affection of passion or feeling but a deliberate and *firm act of the will*. From this union of wills there arises, by God's decree, a sacred and inviolable bond. Hence the nature of the marriage contract, which is unique in human relations, makes it entirely different both from the sexual union of animals which is entered by blind instinct without free choice, and from the promiscuous unions among human beings, which enjoy none of the rights or privileges of family life.

### **Sacred contract**

Marriage is a *sacred contract*, having been established by God as the natural means of uniting a man and woman, and of procreating and educating His sons and daughters. Indeed, in some way, even before Christ's elevation of marriage to the dignity of a Sacrament, it was a contract involving not merely two human persons, but God Himself. Hence, it is given the special name of *covenant* to indicate how, from its institution at the beginning of human history, it typifies both the covenant between God and the entire human race, and in particular, the covenant between Christ and the Church (cf. *Ephesians* 5:21-32).

It takes three to enter marriage according to Catholic Christian standards: husband and wife each contribute their free consent, and God contributes His share. From Him comes the very institution of marriage, the purpose for which it was made, the laws which govern it, the grace to live in accord with those laws, and the blessings which only He can give. From man and woman comes a generous surrender of their persons to one another for the whole span of life, thus becoming, with God's help, the authors of each particular marriage and cooperators with Him in the advancement of mankind.

### **3. Marriage Raised to the level of a Sacrament**

There were no true Sacraments before the coming of Christ. Consequently, marriage was not a Sacrament in

the Old Testament. This is not to deny that already before the time of Christ, marriage was considered something holy, a natural sacrament or sign of divine love. But the essence of a Sacrament is *to confer the grace it signifies*. With the Incarnation, marriage became a sign twice over.

1. It became the sign of the close union between God and man—in other words, a symbol of the Incarnation.
2. It became the sign of the close union between Christ and the Church (cf. *Eph.* 5), and the sign of grace which the Incarnate God was now conferring on His married followers. This grace is nothing less than the grace of such selfless love between the spouses as Christ made possible by His own selfless love for us by dying on the Cross for our salvation.

It is an Article of *revealed* Faith that Christ raised marriage to the level of a Sacrament. What should be emphasized is that this is an Article of *divine* Faith. In other words, we must believe it as part of God's revelation to the human race. It is a dogma and no mere theological conclusion, or less still, a form of theological speculation.

When we say that Christ *personally* elevated marriage to a Sacrament, we mean several things:

- He did so during His visible stay on earth.
- He did not merely found the Church which then, after Christ's Ascension, elevated marriage to a Sacrament of the New Law.
- He laid down the essentials of marriage as a Sacrament, namely its being:
  - 1) a divinely instituted source of grace for baptized married people;
  - 2) monogamous, with only one man and one woman;
  - 3) lifelong partnership;
  - 4) a union of selfless and procreative love.

### **Sacred Scripture and Sacred Tradition**

As Catholics, we recognize two sources of Divine Revelation: Sacred Scripture and Sacred Tradition. We know from Sacred Tradition that the Sacraments were instituted by Christ personally and immediately during His visible stay on earth. At the same time, Our Lord

determined the necessary conditions for their administration and conferral. Only Christ can infallibly join grace to the performance of a sensible sign. What we do not know is WHEN during Our Lord's visible stay on earth they each were instituted. Consequently, we do not expect to find *explicit evidence* in the Bible for Christ's institution of all the Sacraments.

In historic Protestantism, not all seven Sacraments are recognized. In general, the only Sacraments that are recognized by Protestants are Baptism and the Eucharist, the celebration of which they call the Lord's Supper. Those who hold that Scripture alone (*Sola Scriptura*) is the source of Revelation, maintain that the Sacraments whose institution is not explicitly recorded in Scripture (that is, all of them except Baptism and the Eucharist) were instituted by the Church. Therefore, it is wrongly reasoned that they are not true Sacraments. Historically, it is the position of many Protestant churches that only Baptism and the Eucharist give grace of themselves—because there is Biblical evidence of their having been instituted by Christ. Furthermore, they claim, all the other Sacraments can be modified by the Church, because, strictly speaking, there is no Biblical evidence of their institution by Christ.

It is here especially that the Church's faith in the communication of Divine Revelation, not only in the inspired Word of God, the Bible, but also in Sacred Tradition, is so important. We must insist that Christ instituted all seven Sacraments, even those not found *explicitly* in Sacred Scripture. Understanding this is, fundamentally, a liberation from the darkness which prevents us from seeing Christ, Who is so close to us, for instance, in the Eucharist. Part of the ignorance and irreverence found in our Catholic churches today is ultimately the consequence of the false proposition that we can only know God's will by reading Sacred Scripture. This is *private judgment* (the notion that each of us has the authority to interpret Scripture) in one of its worse forms. Private judgment allows people to draw erroneous conclusions. For example, if they don't believe that Christ instituted the Sacrament of Holy Orders, they may conclude that women can be ordained. Furthermore, they separate the institution of Holy

Orders from the institution of the Eucharist. As a consequence of making Scripture alone the basis for believing in the Sacraments, it is not even possible to believe correctly in Baptism or the Eucharist.

Hence, the New Testament Scriptures do not *explicitly* declare that Christ instituted the Sacrament of Matrimony. But this, as previously noted, is precisely one of the basic principles of Catholicism that not everything which Christ revealed is found explicitly in the New Testament Bible (cf. *John* 21:25). In the Church's revealed Tradition, however, from apostolic times, she has always held that Christian marriage belongs to the essence of a Sacrament. Over the centuries, the Church has more than once solemnly taught as an Article of Faith that Christ instituted the Sacrament of Matrimony. This teaching was formally defined by the Council of Trent in the sixteenth century. It declared, "If anyone shall say that matrimony is not truly and properly one of the seven Sacraments of the law of the Gospel, instituted by Christ our Lord, but was invented by men and does not confer grace, let him be anathema."

By divine law, marriage is a Sacrament which confers on two baptized<sup>1</sup> people who marry, all the graces they need for a lifetime to fulfill the duties of their state in life and to assist them in the grave duty to help each other grow in holiness and attain Heaven. Specifically, they receive an increase of sanctifying grace, which includes the virtues of faith, hope and charity; they are able to receive a series of actual graces which are available only through the Sacrament of Matrimony: light for the mind and strength for the will, the capacity to remain faithful to each other, grow in mutual love, and rear their children in the love and fear of God. Thus, by means of the Sacrament of Matrimony, God provides for the spiritual and temporal well-being of a husband and wife and their children, and thus enables people who are inclined toward selfishness and hardness of heart, to become *selfless* and *loving*.

#### 4. The "Ends" of Marriage

Few aspects of matrimony are more widely misunderstood than its purpose, mainly because of the

receive the Sacrament of Matrimony because they confer the Sacrament to each other. When only one party (or neither) is baptized neither the bride nor the groom receive the Sacrament.

---

<sup>1</sup>Non-baptized people who marry, although they do enter into a true natural marriage, do not receive the Sacrament of Matrimony because only validly baptized people are able to receive any of the Sacraments. As the *Catechism of the Catholic Church* teaches, Baptism opens "the door which gives access to the other sacraments" (#1213). Both parties must be baptized for them to

widespread custom of contraception and divorce, both of which contradict essential elements of marriage as understood by Christians since the time of Christ. Briefly stated, the primary purpose of marriage is the generation and upbringing of children, and the secondary is to offer mutual help in fostering love between husband and wife and aiding each other in the control of the sexual appetite and their emotional life.<sup>2</sup>

### 1) Procreation, Care and Education of Children

There are two places in Scripture, both in *Genesis*, where these two ends or functions are touched upon. In the narrative of creation, the making of the first couple is the crowning work of God's creative power, which may be seen from the careful parallelism in the various stages of reproduction. The trees and plants are said to have borne their seed according to their species, and they bore fruit having within it seed. Furthermore, the animals are commanded to increase their number. Finally, Adam and Eve receive the solemn injunction to multiply and fill the earth. Throughout the creation epic is the idea of life being transmitted through the obligation to perpetuate and develop the human family (*Genesis* 1:26-31).

### 2) Mutual Love

In the second chapter of *Genesis*, the situation is different. God created Adam before he formed Eve; on which the divine observation is made that "it is not good for man to be alone." Eve comes into existence in order to be a companion of Adam and "a helper like himself." Adam recognizes in her what he had been looking for before, one who was bone of his bone, flesh of his flesh, for whom his posterity were to leave father and mother. On authority from God, they were to be "two in one flesh," so that mutual assistance, through love and a shared life, is a correlative function of marriage (*Genesis* 2:7-25).

## 1. Procreation, Care & Education of Children

Under pressure from their critics, Catholic theologians have sometimes been tempted to question the primacy of procreation of children in married life. But as often as the issue comes up, the traditional position is upheld and reiterated, that the first reason why God instituted marriage was to have children born into the world and

reared in His knowledge and love. Thus in 1944, the Holy Office, now called the Congregation for the Doctrine of the Faith, in answer to an inquiry, repeated the familiar teaching. Some years later, Pius XII further clarified the doctrine.

“As a natural institution and in virtue of the will of the Creator, marriage has for its first and intimate purpose not the personal perfection of husband and wife but the procreation and formation of new life (through education). The other ends of marriage are certainly willed by nature, but they have not the same excellence as the first and much less are they superior to it. In fact, they are essentially subordinate” (Pius XII, Address of October 29, 1951).

Some people are scandalized at the intransigence of this doctrine, partly because they do not understand its meaning. To say that begetting children and providing for their nurture and care is primary means that nature has provided that, unless the spouses interfere with the generative organs, children will normally be conceived and eventually born. The "first" purpose here is the same as the *direct* purpose, the end that is *built-into* our human powers, the *physical terminus* to which sexual intercourse leads if both parties are fertile and no hindrance is placed in the way.

We might compare this with the appetite for food. It is common knowledge that nourishment of the body and giving it sustenance are the primary end of eating. This is the physical and immediate function that taking food is supposed to provide. It does not mean that every time I eat I overtly (and before all else) decide "I am going to eat in order to sustain my body and give myself the nourishment I need." What it means is that the immediate purpose of eating, insured by the laws of nature, is to support bodily strength and physical life. This function is primary because any other purpose, like enjoyment from taking food, presupposes it. In other words, the objective reason why people eat (whether they advert to this or not) is to maintain life and health of body; it is not to get pleasure out of eating, which is only a means that nature uses to guarantee that people might be attracted to eating at all. If we lacked the appetite for food and drink, we would soon starve from

primary ends of marriage and the good of the spouses which includes mutual help and remedy of concupiscence were secondary. This is still the perennially valid teaching of the Church.

<sup>2</sup> The 1983 *Code of Canon Law* did not give a hierarchical order of the essential elements of marriage as did the 1917 *Code*. In the 1917 *Code*, procreation and education of offspring were the

under-nourishment or weaken our bodies to the point that any disease would carry us off in death.

The first end of marriage, therefore, has been made clear by nature in the complimentary differences between the two sexes and has confirmed the mandate of the Author of nature to increase and multiply.

Not poets and homilists alone, but everyone who seriously reflects on the mystery of life has extolled the grandeur of this task of procreation. The word itself suggests that it means collaborating with the creativity of God Himself. In other productions of human power and genius, we leave the mark of ourselves on whatever we do, but in parenthood we enter into the heart of creation and become co-authors with God of the person we produce. God must indeed create each soul individually, yet even His almighty power will not be exercised unless and until two human beings furnish the bodily conditions which enable God, so to speak, to infuse a human spirit into the body we prepare.

We refer to a recent or impending birth as a "happy event," as though to emphasize that nature itself is pleased at obeying the law of God. When Christ spoke of the woman who forgets all her pain once her child is born (*John* 16:21), He was saying that birth is joyful precisely because it means the attainment of a goal, since every goal achieved is a natural source of joy. When a child is born, something eternal has been made, something sacred has been reached. Even if a child should die on the day of his birth, faith tells the parents he is born in eternity. A birth is always a success, an accomplishment. The joy it brings comes from God; not even death can rob that joy from those who completed a divine and imperishable work by bringing an immortal personality out of nothing into the world.

Large families are thus encouraged by the Church's Magisterium. This stands in stark contrast to the policy of so many secularized nations where so-called "planned parenthood" is really "planned limitation of children" to conform to the paganized philosophy of once-Christian nations.

Procreation, however, is more than producing a child. It seals the marriage union and brings it to fruition; it seals the marriage because the child is made to the image of his father and mother, as well as of God. The child is not just a child but, to each of the parents, he is the gift the other has given, the fruit of their love. He is a living expression of their mutual generosity. Through the child, the "two-ness" of marriage is changed and

develops into a "three-ness;" as in God. Sexuality, it has been said, is duality. Love is always a trinity.

### **Care and Education**

Too often people separate the two parts of the primary end of marriage, as though begetting offspring were the only goal. The primary function of matrimony is twofold, both *generation* and *education*, and not the first alone. Really two kinds of begetting are involved, the one *physical* by delivering a human being, and the other *spiritual* by training the child to know and love the truth and thereby save his soul.

Suppose God had not given parents the power and right to educate their children, but only the power to beget them. He would then have failed to make sufficient provision for children born, and so for the whole human race. Children, as we have seen, are incapable of providing wholly for themselves, even in things pertaining to the natural life, and much less in the myriad needs of the supernatural life of grace. For many years they have to be helped, instructed and educated by others.

The law of conscience, written in the heart of man, teaches that the right and duty to educate offspring belongs in the first place to those who began the work of nature by giving them birth; they are in fact forbidden to leave this task unfinished and so expose it to certain ruin. In the state of matrimony, the best possible provision has been made for the training of children because the parents are bound together by an indissoluble bond; the care and mutual help of each is always at hand. Both parents are necessary for the full, well-rounded development of the child.

### **Role of Mothers**

Not a few mothers sometimes get overinvolved in complex theories and methods, or confused by the conflicting advice they read and hear. Child psychologists remind them that nature meant them to have children, and that they are endowed with a maternal instinct that will develop along with their child. As a human being, a child desires warmth and acceptance, attention and love. These are always the "right things" for him.

Certainly there is no one simple formula for rearing children, because people are individuals, whether babies or adults. While experience may help, lack of it should not be a handicap, otherwise the first-born would regularly be the worst trained! For the consolation of

mothers, infants are an emotionally hardy lot and not easily harmed by occasional mistakes.

A child develops physically and emotionally. Nowadays it is agreed that both kinds of development begin at birth and are closely related. In fact, studies show the important influence of the attitude of parents upon the child who is physically developing in the mother's womb from the moment of conception.

The physical aspect covers not only growth of body, but also coordination of muscles and nerves, development of the brain and thought processes, and learning to recognize people and things around him. Emotional development includes the whole complex of desires and appetites, and concerns the child's reactions about things, people and situations. It means the development of affection, dependence on others, independence and freedom, fears and anxieties, likes and dislikes, confidence in himself and in the world about him. The two kinds of growth work together and affect each other.

A mother should know that her baby learns a great deal about the world in the first few weeks of life, before he can focus his eyes, recognize anything or anyone, or do a thing for himself. He learns to feel that it is a friendly, comfortable place where he will be welcome and happy, and that it can sometimes be strange, frightening and cold. He feels, at a remarkably early age, how much he "belongs," and it is the mother's privilege to foster this feeling from conception and birth on through infancy and into childhood. For the first weeks and months, the mother is her baby's world; she does not cease to be the most important part of that world in the years that follow. No matter how awkwardly she may fulfill her role, the feeling of love comes to her child from the kindly, attentive way she cares for him. The development of her natural maternal feelings, as she fills his needs, will make him sense that he is loved, and he will feel safe and secure.

Mothers cannot overestimate their importance to their children, not just or mostly for physical care, but for the feelings and sentiments they transfer to him or create in him. So the logical starting point for good mothering is to consider oneself and one's feelings and ideals. These should be deep and high, and the principles that govern them sound; they will be communicated to a child years before he ostensibly reaches the age of reason, not by formal instruction or training so much as by example and that mysterious, almost mystical, medium of exchange called a mother's love.

## **Role of Fathers**

Less familiar is the role of the father in the education of his children, perhaps because the mother is normally closer to home and traditionally considered the teacher in the family. Yet the father is in many ways indispensable; his function is not only to supplement the mother's care but to contribute his own proper gifts. There are certain facets of personality that grow and develop in a home only where the father is playing his various roles effectively.

His first contribution is to father the children through their mother. His strength and power have the faculty of passing through the mother to the children. He helps to keep her in the mood for her maternal task by consistently providing material comfort and security for her through his labor. She is thus assured freedom from anxiety about food, clothing and shelter. By showing interest in her activity, creativeness and work, he furnishes what she needs for physical and emotional stability.

In addition to this vicarious "fathering" of the child, the husband has a more distinctive role to play. Comparable to the affection he shows his wife, the loving attention he gives the infant early in life will awaken a corresponding interest in the infant toward him. At first it may be only a dim awareness, but it is an important one. Boys and girls are alike in this respect. They develop their earliest and most decisive ideas about masculinity from their fathers. He evokes a process in the child which psychologists call "animating the mind" toward the male sex. Delay in enthusiasm on his part makes it harder than ever to create the depth of relationship that a child needs to grow into an emotionally healthy person.

One mistake often made is the tacit assumption that the father should avoid all sovereignty over the girl members of the family, as though the latter belonged by right only to the mother. The result can be a one-sided feminine personality that has never felt real nearness and understanding in their relations with men because this dimension of a father's care had been neglected (or avoided) in childhood.

In the next stage of development, the grade school child tends to be unsure of himself, especially when, to a large extent, he is under the direction of women. Boys and girls are not unlike in this matter. They can easily grow to resent the imposed learning process where they are surrounded by women almost to the exclusion of men.

With mother at home and the woman teacher at school, both urging children to learn and progress, they are liable to feel smothered by women. Boys in the lower grades are especially afraid of being effeminate, and whatever lack of docility they have is aggravated by a fear or even refusal to accept the female orientation of mother and teacher as to what constitutes acceptable behavior or moral conduct. Here the father can help to explain and teach, by word and example, the validity of practices which the boy may suspect are only feminine idiosyncrasies.

Specialists in the field suggest there are at least seven variants to the father's characteristic part in the education of his growing family.

- 1) He is above all a companion and inspiration for the mother; if she lacks this, the children may suffer radically from that essential ingredient which is loosely called security but which covers every facet of psychological development.
- 2) The father is moreover an awakener of the emotional potentialities of his children; his role of active element in procreation carries on into education by evoking latent powers and stimulating mental and moral energies that might otherwise never come to light.
- 3) He is meant to be a faithful friend and teacher to his sons and daughters, in a way that a mother can only, with difficulty, ever be; the native rationality of a mature-minded man is supposed to balance the more affectionate and emotional contribution of the mother.
- 4) A father is meant by nature to become the "ego-ideal" for masculine love, ethics and morality. What he is and does will be reflected in his children, and their attitudes towards men will be strongly conditioned by the image of fatherhood which boys and girls see in their own fathers.
- 5) Rising a step higher, even their concept of God will be colored by what they know of such qualities as justice, strength of character, kindness, prudent foresight and solicitude in the parent whom they call father.
- 6) Correspondingly, the father is meant to be a model for his children's social and vocational behavior. "Like father, like son," is not only a proverb. It intimates how deeply human

conduct is shaped by immediate patterns of morality, and how instinctively a child imitates the one whom he has come to recognize as head of the family.

- 7) The stabilizing influence of a father comes not only from his dominant position, but from the numerous elements which nature has implanted in him and which experience develops to the well-being of the children. Where this is missing, the consequences in stunted personality and moral deviation among boys and girls are common knowledge. Nothing can quite supply for the multiple role of a father as protector and mentor, counselor and loyal friend to his children.

Mother and father are differently made by nature for different, albeit complementary, functions in the upbringing of their sons and daughters. Personality development is a complicated affair into which elements from both sexes must enter in order to produce the right measure of strength and tenderness, wisdom and intuition, reason and emotion, control and generosity.

## 2. Mutual Love

The ideal of married love was delineated by Saint Paul when he told the Ephesians, "Husbands, love your wives as Christ also loved the Church," that Church which He embraced with a boundless charity not for His own self-advantage but seeking only the good of His spouse (*Ephesians* 5:25; *Colossians* 3:19). Consequently, the love that marriage is intended to foster between husband and wife is not the passing lust of the moment nor romantic sentimentality, but that deep internal attachment of heart which is expressed in action and proved in generous deeds.

At the center of this marital love is the prior commitment that husband and wife made to accept each other, "for better, for worse, in sickness and in health, until death do us part." They are not simply two people who agreed to live together for a common purpose. They are changed internally by their mutual dedication to form a new entity, not unlike the newness that exists since the Incarnation when God took upon Himself our nature, and became wedded to humanity in a union so close that we call the Church the Mystical Body of Christ (cf. *Rom* 12:4-5; *1 Cor* 12:12-27; *Eph* 3:6; 5:23; and *Col* 1:18, 24).

To the natural man it seems unreal to compare married love with the divine charity that exists between Jesus

Christ and His Church. Yet precisely here is the hidden meaning of Christian marriage which those who lack the Faith do not understand. There are certain qualities to this charity that distinguish it from every other virtue, and when fostered between husband and wife, make their union the nearest thing on earth to the joys of Heaven.

True marital love is absolutely *selfless* and profoundly *respectful*; it seeks not its own but the welfare of the spouse, and it respects the dignity of the other person according to his sex, position in the family and nobility in the sight of God. The marks of selfless love are more easily experienced than defined, yet certain qualities are commonly recognized.

*Love* is a deep, ardent, and devoted affection for another person which delights in and seeks to be in that person's presence. It constantly tries to advance the other's good. In the words of Saint Thomas Aquinas "To love is to will the good of another" (S.Th. I-II, 26, 4, *corp. art.*, cited in CCC 1766). The happiness of the one I love is a source of my own great joy. Love rises above the initial urge that comes of physical attraction.

*Total self-giving* is the ideal towards which every Christian marriage should tend. Unfortunately, the current obsession of media, entertainment, and literature with sex and the fetish made of romantic feelings have obscured the real meaning of love. Movies and television, best-sellers and a flood of tabloids have created a false image that haunts many young people as they enter marriage. They have come so to identify sentimentality and sex with marital love, that once the feeling of "being in love" passes away, the marriage itself is suspect and disintegration sets in. Instead of seeing love for what it really is, *an unselfish union of wills*, they equate it with a subtle egoism that wants only self-gratification. When this cannot be further satisfied, then separation, divorce, another try, and the cycle starts over again.

Marriage counselors and psychologists are finally alerting people to the tragic inversion of values, which are fast approaching the opposite extreme of what the Church means by mutual love as one of the ends of marriage. *Sexual gratification* is a familiar substitute. What many persons do is to draw a moral conclusion from a rule of popular psychology:

"It is gratifying and therefore healthy and natural to indulge the sex appetite when you feel

like doing so; and frustrating, and therefore unhealthy and unnatural, not to."

Correspondingly when the appetite wanes, love wanes, so that the barometer of love in marriage is the degree of pleasure husband or wife derive from their sexual relations.

Until recent years, marriage was to unite the family by tying people together "until death do us part" in spite of the fickleness of their emotions. The authority of Church and State was to guarantee that they kept a promise voluntarily made, but binding, and that could not be unmade. It was left to present-day theorists to invert this order. Where Christianity looks upon marriage as a means of furthering selfless giving, secularism says it is a way of selfish getting. Once a man or woman stops getting what they want, they part company and try again elsewhere.

By Christian standards, the principal effect of love is to unite the wills of those who love, so as to make of them but one and the same will. They sublimate their own preferences in favor of those whom they love, and sacrifice their own pleasures in order to give pleasure to the one loved. When a person truly "falls in love" his whole center changes. Up to that point he may probably have referred everything to himself and considered things from his own advantage. When he falls in love the whole thing is shifted: he becomes a part of the circumference, so to speak, while someone else becomes the center. For example, things he hears and sees are referred instantly to this other person; he ceases to be covetous. His entire life is pulled sideways, if it is truly love; he desires more to share than to receive.

It is this instinctive "otherness," born of true charity, which marriage is meant to develop with the passage of time. The very differences in character between the married spouses are to serve as stimuli for greater self-giving and occasions for growth in mutual love.

### **Husband is the Head, Wife is the Heart of the Family**

One facet of love in marriage that scandalizes even some Christians is the duty it imposes on both parties to respect their spouse's dignity, which is easy enough to describe in theory but more difficult to carry out in practice. The husband is by nature and grace intended to be the head of the family. His wife expects this of him, and society needs, more than ever, husbands who understand their position without abusing it.

Those who criticize the Christian concept of marriage regularly point to the degrading role that wives are said to assume if they build their marriage on the Church's principles. Nothing could be further from the truth. The Church recognizes that no society can long exist without final authority to govern those who belong to it. There cannot be two supreme authorities in the family; it must be either father or mother. All that we know of human nature and history shows that this authority belongs by right to the father. A wife instinctively wants to give such authority to her husband. She desires someone on whom she can rely, notably in times of crisis. She feels the need of such decisiveness and ability to bear responsibilities as a man is expected to have. She is justly proud of her husband when she finds him in many ways her superior, and she prefers to look up to the man she loves and follow his leadership, while deferring to his judgment and care.

Coventry Patmore, a sharp defender of Saint Paul's precept about wives obeying their husbands, felt that many marriages fail because of failure to follow this law:

“Most of the failures in marriage, come of the man's not having manhood enough to assert the prerogatives which it is the woman's more or less secret desire to acknowledge. She knows her place, but does not know how to keep it unless he knows it also; and many an otherwise amiable woman grows restless and irritable under the unsupportable doubt as to whether she has got her master.”

Of course, this “subjection” of wife to husband does not deny or take away her liberty, which belongs to her as a human being, wife, mother and companion. It does not bid her to obey every request of her husband, if not in harmony with morality or with the respect due to her as wife. She enjoys full liberty of conscience and every right to honor. At the same time her position cannot ignore the good of the family, which is a body, and therefore must have a heart and a head. If the heart is separated from the head, only disaster can follow. As Pius XI said so well, “For if the husband is the head, the wife is the heart of the family; and as he occupies the chief place in ruling, she may claim for herself the chief place in love” (*Casti Connubii*, 27).

## **Regulated Satisfaction of the Sex Urge & Marital Rights**

More than one writer in the Christian tradition has pointed out the irrational instinct to keep our sex life segregated from God. God must not be left out of any part of married life, which applies with emphasis to the purpose of marriage in regulating the sexual passions.

Superficially, the Church may seem to be stingy in the matter of sex, allowing no intercourse outside of marriage, no contraception and no remarriage after divorce under penalty of grave (mortal) sin. In actuality, the Catholic faith glorifies sex in these very prohibitions by placing it on the high level where it belongs, and seeking to insure that those who have a right to marital intercourse may enjoy it to the full.

At the outset, it should be stated that everything in the Catholic religion teaches that marital intercourse is morally good and even virtuous. God so created the two sexes to make intercourse possible. He has attached to it great pleasure, not only physical but also psychological. He commanded Adam and Eve (and through them all married people) to increase and multiply through sexual relations. In a famous passage of Saint Paul, the Apostle formally approves coitus:

“Let each man have his own wife, and let each woman have her own husband. Let the husband render to the wife her due, and likewise the wife to the husband ...Do not deprive each other, except perhaps by consent, for a time, that you may give yourselves to prayer; and return together again lest Satan tempt you because you lack self-control” (*1 Corinthians* 7:2-7).

Finally, on this one act depends the survival of the human race, hence what is so important must also be very noble.

But if intercourse is licit, should full enjoyment of sexual pleasure in marriage be sought? Is it not wrong to indulge the satisfaction that comes from intercourse? Catholic morality teaches that coital pleasure for the married is not only licit but can even be virtuous, and any other estimate of matrimony is untrue. The relations which husband and wife enjoy tend to appease their sex desires and leads to prudent moderation if rightly used: it engenders serenity of feelings and cheerfulness in the whole personality and is a recognized tonic for the nervous system and a healthy release for the faculties.

Moralists explain that marital intercourse is lawful for the procreation of children or for other honorable reasons. Such reasons would be the promotion of mutual love and affection, restoration or maintaining of peace, avoidance of unchastity either in oneself or one's spouse. In a word, any reasonable motive that husband and wife may have is enough for having intercourse, and not only the unique purpose of conceiving a child, as long as the couple is open to conception. Therefore, marital relations are permitted, with no limitations, to the married who are certainly incapable of begetting children, like the aged or sterile - whether the sterility is permanent or merely temporary.

Few personal problems are of deeper concern to men and women today than the sexual adjustment in marriage. No easy solution for sexual adjustment in marriage can be given. But from the moral viewpoint, the principle both parties must keep in mind is that, instead of seeking personal sexual satisfaction, each should try first to consider the other in order that perfect mutuality be achieved. Fundamentally this means that the whole marital experience, from foreplay to the sexual climax, becomes essentially the same for both husband and wife, and brings the same enduring satisfaction to both.

Unless both spouses, especially the husband, are aware of the need for adjustment to the other, what nature intends as a symbol and expression of oneness will become a source of tension, then of misunderstanding and finally of opposition. Sexuality as it appears in acts merely to satisfy one's own demands tends to be cruel and heartless. No amount of learned theorizing can change what experience proves, that selfishness in carnal intercourse is the most notorious enemy of marital stability.

Nowhere else, perhaps, does the need for internal affection appear more urgent than in the exercise of the marriage rights. God's first demand of the act of coitus is that it be based on real love. The "crime of non-love" is ultimately at the basis of all broken marriages. Indeed, sexual pleasure does not depend so much on intensity as it does on internal depth. Some theologians do not hesitate to say that in God's first plan for the human race, before Original Sin, this pleasure would have been even greater because it was more selfless and more filled with love.

A physical act of love that does not begin in the soul of husband and wife is a lie, an act of treason, like Judas' kiss. It degrades the married persons and, so far from

uniting them, brings on a separation between their souls. Looking for sexual stimulation for its own sake, apart from love, means that a person never gets out of himself and invests him with a dignity which he does not really deserve. The physical act of love is ennobling, but only on condition that it has a spiritual dynamism, born of mutual affection. When thus animated, intercourse unites two people in a bond that Scripture compares to Christ's union with mankind, and that, experience proves, will sublimate the irrational drive of concupiscence with a control that only those who live by these principles can understand.

## 5. The "Goods" of Marriage

Saint Augustine originated a list of three "goods" of marriage (his "classical" goods are the first three listed below). The "goods" are properties which distinguish the marital covenant from any other type of relationship between two persons. There are four goods or "bona" that are distinguished today:

- 1) *The bonum fidei* – the good of the exclusive marital fidelity or unity of the marital relationship (a monogamous relationship between one man and one woman).
- 2) *The bonum sacramenti* – the good of the irrevocable permanence of the marriage (the unbreakable character of indissolubility of the marital bond).
- 3) *The bonum prolis* – the good of the fruitfulness of the union (openness to the procreation and education of children).
- 4) *The bonum coniugum* – The good of the spouses, which is the sum of the three goods.

As qualities inherent to the institution of marriage itself, in virtue of the natural law, the "goods" are common to all marriages, not only those of Catholics. We have covered the "goods" of procreation and education of children and the good of the spouses; we will now cover the *essential* properties of marriage (built into marriage by God), which are the "goods" of *unity* and *indissolubility* (see canon 1056).

### Unity of Marriage

*Unity of marriage* refers to *marital fidelity*, that is, the exclusivity which is characteristic of the marriage contract, whereby the total joining of one life with another in conjugal love involves only one and the same man and only one and the same woman. There can be only one husband and one wife united, described by Christ's words, "in one flesh." This means:

- marital fidelity between husband and wife, which forbids adultery;
- mutual respect of each other's dignity, which forbids any unnatural sexual activity, or sodomy; and
- the practice of natural intercourse that is open to life, which forbids contraception.

Another name for marital fidelity is *conjugal chastity* in marriage. What needs to be stressed is that chastity is a universal virtue, binding on all human beings in every state of life. For married people, chastity means that they are to enjoy their God-given privilege of marital intercourse, but only between themselves. Moreover, even between themselves they practice chastity only if they do not deliberately interfere with conception. This, too, is marital fidelity, where contraception is infidelity. How is using contraception marital infidelity? It is infidelity because the spouse is enjoying the pleasure of sexual intercourse but for selfish reasons, without that openness to life which is an integral part of the marital embrace. Rather than loving one's spouse, this is actually using one's spouse for one's own sexual gratification. In other words, contraceptive intercourse between married spouses is a lie, and "*ceases to be an act of love*" (John Paul II, *Theology of the Body*, 123:6 (emphasis original)).

### **Indissolubility of Marriage**

Indissolubility of marriage refers to the permanence of marriage; it means that the bond of a valid natural or sacramental marriage cannot be broken by the spouses, except by the death of either party. In other words, once married, the spouses cannot end the marriage on their own initiative; the marriage bond cannot be dissolved, whether because of incompatibility, or even tragic and painful circumstances such as marital infidelity (adultery).

In order to make as clear as possible what the Church means by indissolubility we should distinguish two forms of indissolubility: *internal* and *external*.

1. Internal (intrinsic) indissolubility means that a valid marriage cannot be dissolved from within by any action or will of the spouses. What unites

a couple in marriage is a deep interior bond of which Christ who is God, is the Author.

2. External (extrinsic) indissolubility means that no mere human authority can dissolve, with a right to remarry, a valid sacramental consummated marriage or a valid natural marriage (also called a legitimate marriage or a nonsacramental marriage because one or both parties are not baptized).

ALL marriages are internally indissoluble. NOT ALL marriages are externally indissoluble; some marriages can sometimes be dissolved by a competent Church authority or by certain conditions in Church law.<sup>3</sup> This will be discussed in the section titled, "Pauline and Petrine Privileges."

There is only one marriage that is both intrinsically and extrinsically indissoluble, that is a *valid sacramental consummated* marriage. It "can be dissolved by no human power and by no cause, except death" (canon 1141).

One of the crucial differences between the Catholic and Protestant idea of marriage is the unity and life-long stability on which the Catholic Church has always insisted, even at the price of heavy loss in membership. As early as 1520, or three years after his breach with Rome, Martin Luther argued against the indissolubility of the marriage bond. Though he regarded divorce as injurious to Christian policy and the State, he said that adultery is an immediate ground for divorce with liberty to remarry. Later on, he proposed willful desertion as a second ground for divorce. Other grounds which he recognized were persistent irascibility and pronounced incompatibility of temperament. If either party cannot restrain himself, he said, "Let him (or her) woo another in the name of God."

Here was a reversal of fifteen centuries of tradition. The Council of Trent's *De Doctrina Sacramenti Matrimonii* met this challenge by a series of declarations that represent Catholic teaching on the indissolubility of marriage. The first was a positive statement, tracing the doctrine to the Old and New Testaments.

"The first parent of the human race, under the inspiration of the Divine Spirit, proclaimed the

---

<sup>3</sup> Church law, as referenced in this article, is from the *Code of Canon Law* used by Latin Rite Catholics. Eastern Catholic Canon Law may contain slightly different requirements.

perpetual and indissoluble bond of matrimony, when he said, ‘This now is bone of my bones, and flesh of my flesh... Wherefore a man shall leave father and mother, and cleave to his wife; and they shall be two in one flesh’ (*Genesis* 2:23-24; *Ephesians* 5:31).

“Christ Our Lord taught more clearly that only two persons are joined and united by this marriage bond. He referred to the final words of the quotation above as words spoken by God and said, ‘Therefore now they are no longer two, but one flesh;’ and immediately after this, with the words, ‘what therefore God has joined together, let no man put asunder,’ He confirmed the stability of that same bond which had been declared by Adam so long before (*Matthew* 19:6, *Mark* 10:9) (*Enchiridion Symbolorum*, 969).”

Following this statement of fact, the Council of Trent went on to condemn the contrary teaching in two solemn definitions. It began with a crisp one-sentence statement, affirming the magisterial teaching of the Church:

"If anyone says that the marriage bond can be dissolved by reason of heresy, domestic incompatibility, or willful desertion of one of the parties, let him be anathema" (*Enchiridion Symbolorum*, 975).

Then followed a longer anathema which answered the erroneous claim that the Church cannot appeal to the Scriptures for support on the unity and stability of marriage.

“If anyone says that the Church is in error when it has taught and does teach according to the doctrine of the Gospels and apostles that the marriage bond cannot be dissolved because of adultery on the part of either the husband or the wife; and that neither party, not even the innocent one who gave no cause for adultery, can contract another marriage while the other party is still living; and that adultery is committed both by the husband who dismisses his adulterous wife and marries again and by the

wife who dismisses her adulterous husband and marries again, let him be anathema” (*Enchiridion Symbolorum*, 977).

Clearly the Catholic doctrine on monogamy is uncompromising. In 1527 when Henry VIII first proposed a divorce from his wife Catherine of Aragon, Rome knew the temper of the English king and the consequences that would follow if his divorce were not granted. Yet there was no question of backing down on the ancient tradition, which derives from the first pages of the Bible.

In summary, as long as a marriage is valid, it is by its very nature, indissoluble. However, only a *valid*, *sacramental* and *consummated* marriage is *absolutely* indissoluble. Underlying this fact is the principle of supernatural grace conferred by the Sacrament of Matrimony. Only those who have received this Sacrament have the revealed assurance of God’s grace to enable them to remain in a lifetime commitment to their marriage vows. The constant teaching of the Catholic Church over the centuries is that when both parties are validly baptized before marriage, enter into a valid marital contract of a lifelong union, intending to live together for life, and are otherwise free to marry, consummate the marriage with *natural intercourse*<sup>4</sup> even once—this sacramental bond cannot be dissolved by any human authority, whether civil or ecclesiastical (the Church). Consummation, by natural intercourse, is what seals the absolute indissolubility of sacramental marriage. The very term “consummate” implies finish, complete, or finalize. The married spouses confirm their whole marital consent given during the marriage ceremony by actualizing this consent through marital intercourse.

What should be re-emphasized is that this is the teaching of the Catholic Church. The Church’s history shows that Catholicism remains secure only where there are still professed Catholics who still believe that a valid consummated sacramental marriage cannot be dissolved by any human authority.

In today’s unstable world, with divorces and remarriages, with broken families and sexual promiscuity, it is imperative that Christ’s unqualified

prevent consummation. Other methods of artificial birth control/contraception do not prevent consummation because consummation is, in essence, the conjugal act with the deposit of the semen in the vagina. See canon 1061.

<sup>4</sup> Natural intercourse means a conjugal act which is suitable in itself for the procreation of offspring. Though all contraceptive measures, including chemical and physical barriers, are intrinsically evil, the use of condoms or vaginal sheaths and *coitus interruptus* also

teaching on the indissolubility of Christian marriage be firmly believed and courageously proclaimed.

### **Pauline and Petrine Privileges**

As we have seen, the indissolubility of marriage refers to the permanence of marriage. The marriage bond in a valid sacramental marriage or a valid natural marriage (also called a legitimate marriage, wherein one or both spouses are unbaptized) cannot be broken by the spouses, whether because of incompatibility, adultery, desertion or heresy, except by the death of either party.

Christ, however, by His divine power, may dissolve a marriage. He may do so:

- 1) directly via the death of a spouse;
- 2) via the Pauline Privilege for natural marriages (see canon 1143);
- 3) vicariously, by delegating authority directly to the Pope, as He has done with the Petrine Privilege<sup>5</sup>. Through the Pope, Christ dissolves a natural marriage or a sacramental unconsummated marriage (see canon 1142). (Note that the Pope can never dissolve a *consummated sacramental* marriage.)

### **Marriage of two baptized spouses**

In a valid *sacramental* marriage that is unconsummated, the Pope may dissolve that marriage bond for a just cause at the request of one of the spouses (canon 1142). For instance, should one spouse, after marrying, but before consummation, decide his or her vocation is religious life or the priesthood, such a marriage may be terminated by the Pope.

### **Marriage of two non-baptized spouses**

In a valid natural marriage, the marriage bond is indissoluble when both parties remain unbaptized. But when, on the baptism of one spouse, the other non-baptized spouse “departs” (meaning he or she leaves or refuses to live peacefully with the new Christian), then the marriage may be terminated by the *Pauline Privilege* (cf. *1 Corinthians* 7:12-15). In such a case, the baptized party is free to separate and seek a new spouse. If marriage ensues, the earlier marriage ends. Then, and only then, is the non-believing spouse free to marry

again (canon 1143). Intervention of the Church in cases involving the *Pauline Privilege* only concerns verification of a fact, similar to an intervention to verify the fact of death which also ends a marriage. It is not the intervention of ecclesiastical (Church) authority which ends the marriage (as in the *Petrine Privilege*), but a fact consisting of two elements: the refusal of the non-Christian spouse to live peacefully with the baptized spouse, and the contracting of a new marriage by the baptized spouse. The second marriage actually dissolves the original marriage bond.

### **Marriage of one non-baptized and one baptized spouse**

In the case of marriages in which one party is baptized and one is not, the marriage bond is subject to dissolution, not by the spouses, nor by merely human authority, but through the exercise of divine authority through direct divine concession to ecclesiastical authority in the person of the Pope as with the *Petrine Privilege*. The Pope can dissolve a natural marriage in favor of the faith for the spiritual good of the Christian party.

By way of conclusion, none of these concessions touching termination of the marriage bond *extrinsically* involves a marriage at the highest degree of perfection, that is, a *consummated sacramental marriage*, and none of them concede any authority to the spouses to terminate their marriage, whether the marriage is sacramental or natural, valid or consummated. In this way, the permanence of marriage as God instituted it and as Christ dignified it as a Sacrament of the New Law remains intact.

### **Polygamy**

God instituted marriage in Paradise as a monogamous institution but after the fall of Adam and Eve mankind soon lapsed from the original ideal of monogamy. Polygamy was widely practiced among the Egyptians and Akkadians, the Sumerians and Ugurits - all in the near East. The Patriarchs, Saul and David all had more than one wife, and the custom was recognized in Jewish Law, which implied a divine dispensation. (*Deuteronomy* 21:15-17).

---

<sup>5</sup> With the publication of the 1983 *Code* the Petrine Privilege is referred to as “dissolved by the Roman Pontiff in favor of the faith” or dissolution in favor of the faith.

Some argued that if the ancient worthies of Israel were permitted to have more than one wife, the same privilege should be allowed to Christians. But the Council of Trent declared in favor of monogamy and condemned anyone who claimed that “Christians are permitted to have several wives simultaneously and that such a practice is not forbidden by any divine law” (November 11, 1563). In the twentieth century, the Church became more explicit. Not only is polygamy forbidden to Christians but, we are told, Christ wished “to condemn any form of polygamy or polyandry.” In other words, since the rise of Christianity, polygamy and polyandry are forbidden to all human beings. The restoration of monogamy, which was originally universal, is itself also universal (Pius XI, *On Christian Marriage, Casti Connubii*, n. 21).

Polygamous marriages are not uncommon in non-Christian societies. Among others, Islam allows a man to have four wives and believes that the permission is part of Allah’s revelation to Mohammed. Polygamists (men or women) who become Catholic, on being baptized, have the option of either marrying the first spouse or choosing one of the others while dismissing all the rest (canon 1148).

Here two observations should be made:

- 1) With the coming of Christ, He has provided the whole human race with graces to practice monogamy, such as were not available before the Incarnation.
- 2) Christ instituted the Sacrament of Baptism which enables those who believe in Him to receive the Sacrament of Matrimony. Since apostolic times, the faithful monogamous marriages of believing Catholics have been one of the main marks of credibility of the Gospel. It is precisely here that we find the rational grounds for faith in the one true religion—that its adherents are able, with the sacramental graces they receive, to practice lifelong monogamy—in contrast with other religions that do not provide these graces to their followers.

In their description of the moral life of the early Christians, the apologists of the second and third centuries were eloquent in comparing the laxity of the pagans with the monogamy of the followers of Christ. According to a second century document, "among them wise self-control is found, monogamy is observed, and

chastity is preserved" (*Theophilus of Antioch, Ad Autolychum*, 3, 15). All the extant evidence from the early Church says the same thing.

Reflecting on the teachings of faith, theologians like Saint Thomas Aquinas explain the correctness of monogamy on two grounds:

- 1) that only such a union guarantees the fulfillment of all the purposes of marriage - procreation and education of children, fostering of mutual love, and control of the sex appetite; and
- 2) it alone is a faithful image of Christ's union with the Church, where a single head is joined together with a single spouse.

### Separation and Divorce

Church law recognizes that circumstances can occur that make married life intolerable or even impossible. Therefore, it provides spouses the ability to cease living together but without the freedom to enter a new marriage. Separations of this kind are explained in canons 1151-1155.

The 1983 *Code* uses language that allows a variety of behaviors on the part of one spouse as justification for separation but it also specifies two basic grounds for permissible separation:

- 1) infidelity and
- 2) serious danger to the body and or the soul of the spouse or of the children.

Yet, these circumstances, no matter how serious, do not justify divorce with the right to remarry, even for the innocent party. In such cases, Canon Law supposes that one spouse is reasonably innocent and the other reasonably guilty.

From the very beginning the Church has understood that the marriage remains intact, even if one or both spouses are unfaithful to each other. Infidelity does not dissolve the marital bond. What does it do? It justifies the innocent party in a marriage to separate and to remain so even for a lifetime; although the bond remains and thus there is no freedom to remarry. So, as the Church teaches, infidelity justifies even permanent separation. Of course, the loyal spouse, in forgiving, may choose to take back the wayward spouse.

A separation for infidelity, or for physical or emotional danger, is usually the first step to a civil divorce. Oftentimes a civil divorce is the only way for spouses to secure their legal and financial security and the duties

regarding the children. The Church imposes no penalties on those who are divorced. A civil divorce has no effect on the marriage bond. It is to be understood that a civil divorce does not give them the right to marry someone else.

## 6. Consent, Capacity, Canonical Form

Because Christian marriage is sacramental, the Catholic Church has always vindicated its right to set down *the conditions* under which the Sacrament may be received:

- *who are entitled;*
- *who debarred* from this privilege;
- *under what circumstances* the marital contract is valid or invalid, licit or illicit, “healable” or beyond repair.

The conditions and circumstances necessary for a valid marriage, as required by divine and Church law, are seen in the areas of *consent, capacity* and the use of proper *canonical form*.

### A. Consent - Matrimonial Sacred Contract

Both Christian and non-Christian marriages essentially consist in the matrimonial contract or covenant. Marriage, then, is brought about by the lawfully manifested consent of both parties. Consequently, if consent is lacking then there is no valid marriage.

Consent is considered to be of the divine (natural) law of marriage, and so it applies to all people, whether a baptized Catholic or not; it must be present for a valid marriage and cannot be dispensed. The consent that is required must be an act of the will of each of the contracting parties—free of coercion or grave external fear. This consent is succinctly defined in canon 1057 of the 1983 *Code of Canon Law*:

“A marriage is brought into being by the lawfully manifested consent of persons who are legally capable. This consent cannot be supplied by any human power. Matrimonial consent is an act of will by which a man and a woman by an irrevocable covenant mutually give and accept one another for the purpose of establishing a marriage.”

Additionally, in canons 1095-1103, the *Code of Canon Law* lists elements that make valid consent lacking, some of which will be covered in a following section titled, “Defects to Valid Consent.”

Hence, for a marriage to be valid, there must be valid consent between the contracting parties. Since the

contract they enter has to be accepted by both sides, each must give an external manifestation that they give themselves and receive the other in marriage as it is understood by the Church. Words need not be pronounced, but some visible or externally perceptible sign of agreement is necessary. Since consent is an act of the will, the Church presumes that the internal consent of the will corresponds with the external words or signs that are used in their exchange of consent during the marriage ceremony.

Consent may also be given by proxy, as stated in canon 1104, §1. When marital consent is exchanged by proxy, one or both spouses cannot be present to one another and there is urgent need to marry without delay. The proxies may be of either sex. After such a proxy marriage, the spouses may later on receive the nuptial blessing from a priest. In this blessing, whether given under the normal circumstances of the couples’ being present to one another in a non-proxied ceremony, or afterward, if by proxy, the priest prays for the married couple and asks that God give them special graces, including fidelity, a long life together, and the blessing of children.

### The Marriage Bond

When a man and woman give each other their valid consent in *Christian marriage* (both are baptized), the Holy Spirit seals their consent in the *bond of marriage*. “For the good of the spouses and their offspring as well as of society, the existence of the sacred bond no longer depends on human decisions alone” (*Gaudium et Spes*, n. 48). The covenant they have made with each other and with God signifies the mystical union of Christ with His bride, the Church; it creates a bond which is perpetual and indissoluble. It is, in fact, an expression of God’s perfect love for humanity. Surely, the significance of the sacramental marriage bond is one of the greatest blessings of Christian marriage, and its rejection, one of the greatest curses for the entire human family. The marriage bond is perpetual and exclusive; when consummated by natural intercourse, it cannot be dissolved by any authority other than Christ. It requires fidelity (faithfulness), permanence and openness to the procreation and education of new human life.

The marriage bond in a *natural marriage* (one or both are unbaptized) does not differ from that of a sacramental marriage bond. The difference between the two forms of marriage is found in the different signification and in the different effectiveness of each. In a merely natural marriage, the bond does not signify the union of Christ and the Church, whereas, in a

sacramental marriage, it does. Precisely because natural marriage does not signify this union, it also does not effect those graces and saving blessings which are effected by the Sacrament of Marriage for the baptized married couple. If one of the parties is baptized, the baptized spouse does receive special graces from God because of his or her membership in the Mystical Body of Christ, but he or she does not receive the unique graces conferred by the Sacrament of Marriage because this requires that both married parties be baptized.

In order for a natural marriage to be valid and to establish a *valid marriage bond*, in essence identical with that of a sacramental marriage bond, certain conditions must be met on their wedding day at the time of their exchange of wedding vows:

1. Both parties choose freely, with adequate knowledge and understanding of marriage as a commitment to the good of the other, which must also be a monogamous, lifelong union open to the procreation of new human life.
2. Both are of age and free to marry.
3. If one party is Catholic,
  - the marriage is contracted before an authorized bishop, priest or deacon (or, in some rare cases, a lay person) and two witnesses;
  - the Catholic party has obtained the required dispensation from the competent Catholic authority (usually the Bishop) in order to validly marry the non-baptized person.

For sacramental marriages, including secret marriages,<sup>6</sup> to be valid, the following conditions must be met on their wedding day at the time of their exchange of

---

<sup>6</sup>Secret marriages are those that cannot be celebrated publicly. They are contracted by means of canonical form, and a written record of them is kept by the Church. Secret marriages can be permitted by the local Ordinary “for a grave and urgent reason,” along with other provisions (see canons 1130-1133). A secret marriage may be granted, for instance, in the case in which two people have been living as husband and wife and everyone presumes that they are married, when, in fact, they are not. The couple can rectify this situation by approaching the Church and requesting a canonical marriage; however, the marriage would be celebrated secretly because a public ceremony would cause grave scandal.

Clandestine marriages are different from secret marriages, or “marriages celebrated in secret.” Clandestine marriages are contracted without canonical form and are not recorded by the

wedding vows:

1. Both husband and wife are validly baptized Christians.
2. Both choose freely, with adequate knowledge and understanding that marriage is a commitment to the good of the other, which must also be a monogamous, lifelong union open to the procreation and education of new human life.
3. Both are of age and free to marry without any impediments.
4. If at least one party is Catholic, then the marriage must be contracted before an authorized bishop, priest or deacon (or, in some rare cases, a lay person) and two witnesses.

For clandestine marriages to be valid, they must be permitted by Church law and meet the same first three conditions as sacramental and secret marriages; the fourth condition is not required.

When both parties are baptized and they contract a *valid* marriage, their contract is at the same time, and *ipso facto*, a Sacrament. Thus, not only two Catholics, but two Protestants, or a Catholic and Protestant, or any two baptized Christians also receive the Sacrament of Matrimony through their valid marriage contract. The important factor is that *both* parties must be baptized for *either* of them to receive the Sacrament of Marriage. Implicit in this is the fact that marriage is a unique Sacrament. It is, by its very nature, a *mutual* Sacrament. Husband with wife, together, receive the one Sacrament of Matrimony. The bride and the groom are the recipients and the ministers of the Sacrament to each other.

Church. They are completely private marriages and are only sometimes permitted by Church law. Clandestine marriages may occur in cases in which the marrying parties live in a totalitarian state and have no access to a priest as a witness. Under these circumstances, when it is physically and morally impossible for a couple to use the canonical form, they can validly contract a marriage. The involvement of the Church is always afterwards because of the unusual situation. If the regime falls, and they regain their freedom, it is sufficient for the spouses to come forward and say they exchanged vows on such-and-such a day and the Church would record it. Clandestine marriages are true marriages, that is, they do not lack any of the qualities of a true marriage; the only thing lacking is the canonical form, because it is impossible to have. Everything else, however, must be in order.

Furthermore, when the Sacrament of Matrimony is validly received by two baptized persons, Catholic or not, the marriage is said to be *ratified*. A “ratified” marriage, in Catholic terminology, is the same as a “sacramental” marriage.

This language is especially useful to distinguish a sacramental (ratified) marriage from a sacramental marriage that is both *ratified* and *consummated* by an act of natural intercourse. Only the latter is absolutely indissoluble (canon 1061§1). The term “ratified” may seem strange to describe a marriage between two baptized persons. Underlying this term is a truth of faith. When two baptized persons marry, their marriage is ratified by God by giving the married spouses the guarantee of lifetime graces from the Sacrament of Matrimony. Always to be kept in mind, however, is that the Sacrament of Matrimony must be validly received as a precondition for receiving the sacramental marital graces from God. In addition, one must be in the state of grace to receive the graces promised to those who validly receive the Sacrament of Matrimony.

### Contraception

The very purpose of marital intercourse is to bring children into the world and to express and foster selfless love within and between the spouses. Contraceptive intercourse is, by its very nature, selfish and unloving. It is a denial of the divinely ordained purpose of marital relations.

All forms of contraception are forbidden by the natural law even apart from divine revelation. This for several reasons:

- Contraception is selfish mutual masturbation. It is deliberate sex indulgence separated from both the fundamental purposes of marriage, that of the procreation of children and fostering mutual love between the spouses. Procreation and mutual love are inseparable in marriage. What do we mean when we say that mutual love and procreation are inseparable in marriage? We mean that “mutual love” can be an excuse for mutual selfishness. A married couple may claim they need contraceptive intercourse to foster their mutual love. In reality, they are fostering mutual self-indulgence. How so? Because in the designs of Providence, the pleasure of marital intercourse is God’s reward (or compensation) for accepting the responsibilities of parenthood. To refuse these responsibilities while accepting God’s reward for parenthood is an injustice against God and, in effect, a form of blasphemy.
- Contraception is the seedbed of abortion. It leads to the murder of unwanted children already conceived.
- Contraception between married spouses destroys the mutual trust in the fidelity of the married partner.

Natural Family Planning (NFP), as it is popularly called, is a fairly modern development in the life of the Church; it began in the 1950’s. It relies on the periodic abstinence of married couples from intercourse during the predictable fertile period of the wife each month. What needs to be stressed is that natural family planning should not be resorted to except for serious reasons.<sup>7</sup> Another term, “supernatural family planning” is coming

<sup>7</sup> Excerpt from Encyclical Letter of Pope Paul VI, *Humanae Vitae* (July 25, 1968) Sections 10 and 16.

“10. In relation to physical, economic, psychological and social conditions, responsible parenthood is exercised, either by the deliberate and generous decision to raise a numerous family, or by the decision, made for grave motives and with due respect for the moral law, to avoid for the time being, or even for an indeterminate period, a new birth.”

“16. If, then, there are serious motives to space out births, which derive from the physical or psychological conditions of husband and wife, or from external conditions, the Church teaches that it is then licit to take into account the natural rhythms immanent in the generative functions, for the use of marriage in the infecund periods only, and in this way to regulate birth without offending the moral principles which have been recalled earlier [20]. The Church is coherent with herself when she considers recourse to the infecund

periods to be licit, while at the same time condemning, as being always illicit, the use of means directly contrary to fecundation, even if such use is inspired by reasons which may appear honest and serious. In reality, there are essential differences between the two cases; in the former, the married couple make legitimate use of a natural disposition; in the latter, they impede the development of natural processes. It is true that, in the one and the other case, the married couple are concordant in the positive will of avoiding children for plausible reasons, seeking the certainty that offspring will not arrive; but it is also true that only in the former case are they able to renounce the use of marriage in the fecund periods when, for just motives, procreation is not desirable, while making use of it during infecund periods to manifest their affection and to safeguard their mutual fidelity. By so doing, they give proof of a truly and integrally honest love.”

into use. It implies that married people are to be supernaturally motivated in their family planning. They are to rely on the supernatural sources of grace – prayer and the Sacraments – and be willing to practice, if need be, the supernatural virtue of charity in a heroic degree to witness to the power of God’s grace in modern secularized society

### **Defect of Valid Consent**

Defect of consent is the most common cause of invalid marriages. There are several defects that can cause consent to be invalid, and they are listed in canons 1095-1103 of the 1983 *Code*, a few of which are as follows:

1. Lack of sufficient reason – both parties must be able to critically evaluate and to freely and wholly choose to enter into marriage with the intended spouse.
2. If there exists a grave defect of discretion of judgment concerning matrimonial rights and duties.
3. Mental inability to assume the obligations of marriage.
4. Ignorance of certain essential elements of marriage (i.e., they must know that marriage is a permanent partnership between a man and a woman, ordered to the procreation of children through their conjugal union).
5. Error of person (i.e., mistakenly marrying an unintended person).
6. Marrying under condition, force, or grave fear.

Let’s examine, more closely, three of the elements that impede valid consent: ignorance of certain essential elements of marriage, error of person and marrying under force or grave fear.

#### **1. Ignorance of certain essential elements of marriage.**

Every contract, to be valid, must be made with adequate knowledge and full consent to the agreement; marriage is no exception to the rule. On the score of knowledge, erroneous ideas may concern, for example, the nature of marriage and its properties. There is not much of a problem about ignorance on the nature of marriage. It is enough that both parties know that marriage is a *permanent union* of husband and wife for *generating children*. This minimal knowledge is assumed in everyone who has reached adolescence, and the absence of such knowledge would have to be proved.

A more subtle question is error about the quality of marriage as an *exclusive* and *permanent* union. If it is a purely theoretical error, when the mistake is only in the mind and does not affect the will, then the contract stands. An error in this matter is always presumed to be merely mental until the contrary has been established. On the other hand, if besides the mistaken notion there is also a *positive act of the will*, the marriage contract is invalid. Suppose a man expressly stated that he intended to contract a *dissoluble* union. He would not be married in the judgment of the Church.

#### **2. Error of person**

Another area of possible error concerns the other party. If the mistake is about the *physical* identity of the person one marries, then the contract is invalid even by the natural law. Thus, if a man thinks he is marrying a certain girl, but her twin sister is substituted, the contract is null and void. The historic case of this kind was the pseudo-marriage of Jacob to the veiled Leah, whom he mistook for Rachel (*Genesis 29:23-25*). The contract, then, is null only when the error amounts to an error about the person. A situation of this kind is extremely rare.

The more common problem is that of mistakes which concern only the *quality* of the person where a man or woman marry under the mistaken notion that his or her fiancé(e) is rich, or specially gifted, or virtuous, or with a certain social or economic status - none of which would invalidate the marriage even though the most clever deception were practiced, *unless* one spouse intended to marry the other precisely *because* of these mistaken qualities. The quality in question must be objectively related to the essence of the marriage and to the harmony of conjugal life, i.e., intrinsically related to the essence, properties and ends of marriage (cf. *Code of Canon Law 1098*).

#### **3. Marrying under force or grave fear**

Matrimonial consent may be vitiated by violence or fear. Thus, if a woman were physically coerced to go through a ceremony with a man she absolutely did not want to marry, the contract would be void. More common is the element of fear, which may also invalidate a marriage, but only under specified conditions. It must be a *grave* fear, caused by someone outside the person fearing, and so irresistible that the only way to escape the thing feared is to go through the marriage ritual.

A grave fear would be one induced by threats of physical violence, strong and importunate demands,

constant and emotional entreaties, or prediction of permanent displeasure of parents and similar pressures. The evil feared may refer to the person who marries or to a third party, a relative, friend, or fiancé(e). In the nature of things, the usual victim of such fears is the woman.

The source of the fear must be a human agent and not some impersonal cause, and it must cause the marriage to occur. In other words, one marries because of this fear; if there was no fear, one would not marry. Again, to render the contract null, the fear would have to come from outside the one fearing, and not be caused by his own imagination, qualms of conscience or fixed ideas of any sort. The latter may, of course, have come about from this external agency, but unless there is solid, objective reason for the grave fear, it would not affect the marital contract. A girl might be deathly afraid of her father and marry the man she knows he prefers, but if the dread of her parent is mainly *self-induced*, the marriage is valid.

One case that comes up is that of a *breach of promise*, where the girl at first promised to marry a man, and may even have been engaged to him. She changes her mind and tells him so, but under duress from the man she marries him. This would invalidate the marriage. (Note that a promise to marry, made by either one or both parties, is a serious matter. Even when the promise is not technically an engagement, it is still gravely binding in conscience when *seriously made* to the potential spouse in marriage. Consequently, there must be correspondingly grave reasons for not fulfilling the promise. There may even be grounds for reparation or compensation binding morally on the party that fails to carry out the marriage promise<sup>8</sup>. Although a person may have to make reparation, he or she cannot be forced to marry, regardless of a promise made. (See canon 1062, §2.)

## B. Capacity

The second requirement for a valid *sacramental* marriage or valid natural marriage is that they must possess the proper *capacity* to enter into marriage. This means they must be free from *diriment impediments*,

which the *Code of Canon Law* defines as facts or circumstances which “render a person unqualified to contract marriage validly” (canon 1073). Specific diriment impediments which cause a person to lack the capacity to marry validly are given in canons 1083-1094.

Some impediments are of *divine (natural) law* and some are of *Church (ecclesiastical) law*. Those of divine law apply to ALL persons, whether a baptized Catholic or not, and cannot be dispensed. Those of Church law apply only to Catholics and those who marry them, and may be dispensed by the proper Church authority (see canons 85-86).

Some of these impediments which cause a lack of capacity to marry are covered in more detail in the following section.

### Impediments Causing Lack of Capacity to Marry

By way of prelude to the discussion of the impediments causing a lack of capacity to marry, two items should be briefly touched upon: Church and State rights in marriage. It is Catholic belief that marriage between baptized persons is subject to the jurisdiction of the Church, for the simple reason that such marriages are always sacramental and, therefore, come under the Church's authority. The Church, therefore, claims the right to set down impediments or dispense with them; this affects also those who are not Catholic. Thus, Church law exempts baptized non-Catholics from the duty of marriage before a priest and two witnesses (canonical form), and from such impediments as disparity of cult (i.e., when marrying an unbaptized person, their marriage is considered valid no matter before whom they make the contract, and even though one of the parties is not baptized).

As far as State rights are concerned, civil authorities have every right to prescribe certain conditions affecting marriage on its physical, social and economic side. But beyond this, the Church believes such authority belongs by divine right to the ecclesiastical domain where baptized persons are involved. It is quite otherwise with people who are not baptized, over whom the State has

<sup>8</sup> Historically, there was much associated with marriage promises: reputations, “status”, etc., may have been needed to be repaired, and “damages” in some cases would have been proportionately repaid through the giving over of money. Also, honor or reputation might have needed to be restored in some fashion (the giving of a title of dignity, or publishing something about a person, for

example). Although much less common in our day, the root principle still holds, that some kind of reparation may be appropriate when the promise to marry is rescinded.

the power to establish impediments and decide under what conditions their marital contract is valid or not.

### **Divine and Church Law**

Any factor or circumstance which prevents the celebration of marriage is an impediment, from the Latin *impedire* (to stand in the way), and may be of two kinds: either *merely forbidding* the marriage (simply called “impediments”) or *invalidating* the marital contract (called “diriment impediments”).

- 1) The first type of impediment is merely forbidding or prohibitive. These allow the marriage to be valid, but require that permission be obtained from the proper Church authority for the marriage to be licit (lawful);
- 2) the second type of impediment is a diriment impediment (*dirimere* = to tear apart), these do not allow for the attempted marriage to be valid, unless a dispensation has been obtained from the proper Church authority.

The circumstance which either forbids or nullifies (makes it invalid) a marriage may be public or private, known or even unknown to the parties themselves. If known, they are required to make known to Church authorities any and all impediments that may exist (canon 1069). One reason for making impediments known is that the marital contract may otherwise be invalid.

### **What is the source of these impediments?**

The source of these impediments to marriage are found in:

1. *Divine (natural) law*, founded in the objective moral order and therefore binding on all persons, whether they are baptized or not, whether they marry Catholics or not; and
2. *Church (positive) law*, determined by the Church as obligating all Catholics and non-Catholics who marry them.

These two types of laws are fundamentally different: *Divine* laws were laid down by God Himself, and *Church* laws are man-made.

A divine law, established by God, mandates the Church to observe them at all times. They cannot be changed, nor can any Church authority ever dispense anyone from them. These divine laws are referred to as from the natural law.

A Church law can be changed as it is established by human authority. It can also be dispensed in a particular case at the discretion of the proper Church authority.

Very few impediments come under the divine law and all of them are diriment, thus they nullify the marital contract, namely:

1. Marriage before a person has the use of reason as they lack sufficient intellectual-emotional, psychological maturity which are necessary for marriage;
2. Impotency that exists prior to marriage and is permanent;
3. Existing valid marriage bond of a previous valid consummated marriage between two baptized persons;
4. Close relationship by blood (consanguinity in the direct line i.e., between parent and son or daughter; or in the second degree of the collateral line i.e., between brother and sister.

Since these four diriment impediments are of the divine law, they apply to all persons, whether baptized or not. Additionally, no dispensation is ever given or can be given for them.

Not all diriment impediments are equally important or practical, yet all have direct bearing on the nature of marriage and explain the Church's solicitude to safeguard a contract on whose validity depends one of the Sacraments and the consequent grace that husband and wife need to live out their married life successfully.

Let us examine a few of the diriment (invalidating) impediments in more detail.

### **Diriment (Invalidating) Impediments**

#### **1. Immaturity of age (Church law)**

Immaturity of age is the first nullifying impediment, which Canon Law has fixed at sixteen for the boy and fourteen for the girl. They must have completed these years in order to validly marry. Concealing one's true age in order to avoid the minimum age required invalidates the marriage. Episcopal conferences can raise the minimum age, but only for *liceity*, not for validity. Filial respect, prudence, and charity recommend that children obtain their parents' approval before marrying. But there is no question of obligation, certainly no grave obligation to obtain the parents' consent as a precondition for marriage. Those persons who meet the canonical age requirements but are still very young should be *discouraged* from marriage

because of the difficulties of such young people marrying, at least in our contemporary world. They may not, however, be forbidden to marry. We must also take into account that cultures differ in different countries. The lifespan in some countries is quite low, which means that if marriage is long delayed, the children may be deprived of parental care as they grow into adolescence. And most seriously, in materially prosperous countries, people delay getting married in order to enjoy an abundance of physical comforts which can be a considerable hindrance to a selfless marital relationship.

Some people think that puberty is enough to contract a valid marriage, but that is not correct. Baptized persons do not enter a valid marriage before the specified age even though both parties have reached puberty, which is not only possible but common. On the other hand, two people contract validly if they are of age (16 and 14) even though neither has yet attained puberty. Unbaptized people are not affected by this Church legislation but they are affected by State legislation which determines the minimum age for marriage.

A subtle aspect of the age requirement specifies that a marriage does not become valid automatically, once the couple attain maturity. Unless marital consent is duly renewed the contract remains invalid.

Why the age limit, if the boy and girl are physically capable of becoming parents? The immediate reason is their psychological immaturity. Young people in their early teens are scarcely equipped mentally and culturally to cope with the manifold challenges of married life; the boy is unable to earn enough money to make a living, the girl unequipped to face the responsibilities of motherhood. Medical and genetic factors also play a part. Puberty is not a sudden physiological change, but a gradual process, with intercourse and child-bearing to be discouraged before the reproductive system is sufficiently formed. If the canonical age seems too low for a country like the United States, it should be remembered that the Church is legislating for Catholics everywhere, including countries like India and Spain, where puberty may be reached three or four years earlier than in North America.

## **2. Impotence (divine law)**

Impotence is the inability to have intercourse, i.e., to perform that physical act whereby the genital organs of the man and woman are so united as naturally to lead to

conception. It is therefore carefully to be distinguished from sterility, which neither invalidates marriage nor makes it unlawful; because husband or wife are incapable of having children, does not in any way affect their marital contract.

Inability to perform the sexual act may be *absolute*, when the impotency prevents intercourse with any person, or *relative* when impossible with some one person, or *permanent* if it cannot be corrected naturally or by lawful surgical means. Nowadays, with the progress of medical science, what used to be permanent impotency can become temporary, and new advances in this field are being reported annually. Only one kind of impotency invalidates marriage, if it is perpetual and if it precedes the wedding ceremony. Otherwise the marriage is valid. Consequently, if marital intercourse becomes physically impossible after marriage, the contract remains unchanged and valid. The essential element is the capacity for a man to deposit seminal fluid in the opening of the vagina. If either he or she is physically incapable of this necessary function, there is impotency, but the marriage stands unless the condition were known to exist before the wedding.

## **3. Previously Existing Marriage Bond (divine law)**

A marriage is considered valid, and the marriage bond is presumed to exist, once a marriage has been lawfully celebrated. The validity of this marriage must be upheld until the contrary is proven (canon 1060). Thus, the diriment impediment of a previously existing marriage bond makes it impossible for a man or woman to marry another spouse, as long as their first union has not been dissolved (as may happened under the Pauline privilege) or declared null by a competent Church authority.

Of course, the previous marriage must have been valid, and not a few cases which scandalize people are those in which the former marital contract had been declared null (and thus invalid) for any one of many reasons. But if the preceding marriage was valid, whether the parties are Catholic or not, Christian or unbaptized, a subsequent union remains invalid unless or until a nullity or dissolution of the prior matrimony has been legally and certainly established.

## **4. Disparity of Worship (Church law)**

Disparity of worship (also called disparity of cult) is a term for the impediment which nullifies (except with a dispensation from the proper Church authority) a marital contract between an *unbaptized* person and one who is baptized in or later received into the Catholic Church.

Non-Catholics who marry among themselves are not affected by this Church legislation, although apostates or those fallen away from Catholicism remain bound by the impediment. Without the dispensation, the marriage would be invalid.

The Church treats marriage with disparity of worship in a more strict way than a mixed (inter-faith) marriage of two baptized persons. An inter-faith marriage needs the express *permission* of the proper Church authority to be *licit*—which means they can marry validly without it, but disparity of worship marriages must have an express *dispensation* from this impediment for them to marry validly.

The reason for this impediment is mainly to insure the continued perseverance of the Catholic party in his or her faith, and provide for the Catholic education of the children who may be born of the marriage (see canons 1124, 1086).

## 5. Relationships

In a class by themselves are those diriment impediments which refer to various relationships within which a person may not enter marriage. Some impediments are of divine law and cannot be dispensed, some are of Church law and can be dispensed.

### Consanguinity-Governed by Divine and Church law

*Consanguinity* (cum + sanguine = with blood) is a *natural (biological) relationship* between two persons, one of whom is descended from the other or at least both of whom have the same common ancestor. Another name is *blood relationship*, even when the two people have only one forebear in common.

The divine law declares that any marriage is invalid if two persons are related to each other in the *direct line* in any degree. They are related in the direct line if they are directly descended one from the other. Thus, marriage is always invalid between parent and child, grandparent and grandchild, great-grandparent and great-grandchild, etc. A dispensation would never be granted for those in the direct

line. For example, a father would never be allowed to marry his daughter; these relationships are so close that such a marriage is a violation of divine law.

The divine law also declares that a marriage is invalid if two persons are related to each other in the *collateral line* up to the second (brother-sister)<sup>9</sup> degree. Brothers and sisters are the clearest example of relatives in the collateral line, and they would never be granted a dispensation to marry (see canon 1078 §3).

Church law declares that any marriage is invalid if the parties are related in the *collateral line* within the third (uncle-niece) and fourth (first cousins) degree.<sup>10</sup> The collateral line means that people are descended from the same ancestor through a side-by-side relationship. One relative does not directly beget the other (as in the direct line) but both have the same father, mother, and so on, down the line.

### Affinity-Governed by Church law alone

Affinity is an *in-law relationship* and thus is a less close relationship than consanguinity. It arises from a valid marriage and it pertains to the wife and the blood relatives of her husband, or the husband and the blood relatives of his wife. Affinity in any degree of the direct line invalidates marriage as defined by Church law but in the Latin Rite there is no Church law against marrying in the collateral line<sup>11</sup>.

Thus, if a woman's husband dies, Church law forbids her to marry either her husband's father or grandfather, nor his son by a previous marriage, or his grandson, but she could marry (collaterally) her husband's brother, or his first cousin, or his uncle, or his nephew. (Collateral line includes brothers-in-law, sisters-in-law, nieces, nephews, cousins and other distant relatives.)

A dispensation can be granted for marriages of those in the direct line as this restriction to marry is only by Church law and not held to be of divine law.

<sup>9</sup> There is some disagreement whether consanguinity in the second degree of the collateral line is divine law or Church law, thus the 1983 *Code* avoids the issue and says that a dispensation is never given from the impediment of consanguinity in the second degree of the collateral line; meaning that brothers and sisters cannot marry.

<sup>10</sup> There is *no dispensation at all* for consanguinity in the direct line (parents, grandparents, children, grandchildren, etc.) or for 2<sup>nd</sup>

degree in the collateral line (brother-sister). The Ordinary can dispense from 3<sup>rd</sup> degree (uncle-niece) or 4<sup>th</sup> degree (1<sup>st</sup> cousin) impediments of the collateral line.

<sup>11</sup> In the Eastern churches affinity in the second degree of the collateral line is an impediment to marriage. Therefore, a woman could not marry her deceased husband's brother.

Affinity is an impediment that affects Catholics. It does not affect the marriages of two non-Catholics, whether baptized or not.

### **Dispensations from Impediments to Marriage**

As might be expected, the Church gives dispensations from the impediments to marriage only for reasons proportionate to the gravity of the obstacle and only for impediments governed by Church law. Thus, no dispensation is ever given or can be given from *diriment* impediments that come under divine law.

Dispensations from impediments must be examined and weighed in each case. The most familiar is a dispensation for a disparity of worship (cult) marriage. Without such dispensation, the marriage is invalid.

### **C. Canonical Form**

For all Catholic marriages there is a third requirement which is obligatory, that of canonical form. For a Catholic to validly enter into marriage, he or she must follow the proper *canonical form*. In virtue of Canon Law for Latin Rite Catholic marriages, whenever a Catholic wishes to marry, he must do so before his parish priest or his Bishop, or a priest, deacon or lay person delegated by either of them who receives the consent of the parties in the name of the Church, and also before two witnesses (canons 1108-1112, 1116). (Eastern Catholic Canon Law contains slightly different requirements.) Unless these conditions are fulfilled, the marriage is not valid in the eyes of the Church. The two witnesses must be able to see what is said and done at the wedding, and thus testify to the contracting of the marriage. Together with the assisting priest, they have to be physically present when the matrimonial consent is expressed.

Incidentally, the place where the marriage is celebrated is not part of the canonical form and, therefore, does not affect the validity of the marriage. However, the place is still very important and is thus addressed in canons 1118 to 1120.

### **Who can validly officiate at a marriage in which at least one of the spouses is Catholic?**

As canon 1108 explains, the marriage should be celebrated by the head of the parish or the diocese where at least one of the parties resides because the Catholic's spiritual well-being has been entrusted to the Bishop of the diocese and, even more specifically, to the pastor of the parish where he or she lives. Pastors can delegate to priests and deacons the faculty, even a general one, to

assist at marriages within the limits of their own pastoral territory because a priest cannot validly assist at a Catholic marriage unless he has the necessary faculties to do so. Lay persons can also be delegated to assist at marriages in place of priests or deacons; however, the norms of the Church's law must be observed. Implicit in this grant is the Church's teaching that, in essence, it is the two marrying parties who actually confer the Sacrament on each other.

### **Who are obliged by this requirement of a priest, deacon or appointed lay person and two witnesses?**

All Catholics, whether baptized in infancy or later on, whether born into the faith or adult converts, and even those who had given up the practice of the faith by falling into heresy or schism, are obliged by this requirement. The injunction holds whether the party they marry is another Catholic, a non-Catholic Christian, or one who is not baptized. There are no exceptions for a Catholic. Catholics must follow canonical form except when there is danger of death, in which case canonical form can be omitted (see canons 1079 and 1116).

As regards to all other non-Catholic persons, baptized or unbaptized, who do not come under the requirement of following the canonical form because they are not marrying a Catholic, the Catholic Church considers their marriages valid, provided they were free to marry and made their contract in some form which the contracting parties recognized as legitimate, such as before a minister or rabbi, a justice of the peace or civil official. Such marriages are not only valid but indissoluble and, where the man and woman are both baptized, also a Sacrament which gives special grace to the contracting parties. It is important to note that marriage enjoys "the favor of the law," which means that all marriages are presumed valid. Consequently, when a doubt exists, the validity of the marriage is to be upheld until the contrary is proven through a judicial procedure of the Church (canon 1060).

### **7. Mixed or Inter-Faith Marriages – Permission and Promises**

The present 1983 *Code of Canon Law* is much more lenient regarding mixed (inter-faith) marriages than was the former *Code* of 1917. Among other provisions of the former *Code* were two stipulations:

1. The non-Catholic party shall have given a guarantee to remove all danger of defection from the Catholic Faith on the part of the Catholic

party, and both parties shall have given guarantees to baptize and educate all the children in the Catholic faith alone.

2. There exists moral certainty that the guarantees will be fulfilled (canon 1011, §2, no. 3).

The present 1983 *Code* places the duty to preserve his or her Catholic faith and rear all the children Catholic on the Catholic party.

The 1983 *Code* also specifies that the liceity (lawfulness) of a mixed marriage between a Catholic and a baptized non-Catholic requires “the express *permission* of the competent authority” (canon 1124) rather than requiring a *dispensation* for *validity* as in the previous 1917 *Code*. This permission is generally given by the diocesan Bishop, and the Church sees it as a necessity because of the inherent obstacles that exists toward the couple’s full spiritual communion due to differences in their religious beliefs. The Bishop is only to grant his permission if there is “a just and reasonable cause” and certain conditions are fulfilled:

- 1) The Catholic party declares his or her intention to remove all dangers of falling away from the Faith and sincerely promises to do all in his or her power to ensure all offspring are baptized and raised in the Catholic Faith.
- 2) The non-Catholic party, at an appropriate time, has been made aware of the Catholic party’s promises and obligations.
- 3) Both parties are instructed about the purposes and essential properties of marriage (cf. canon 1125).

If, for some reason, permission to marry is not obtained and the Catholic marries a baptized non-Catholic with proper consent, capacity and canonical form, the marriage would be valid but illicit (unlawful).

As previously discussed, when a Catholic wishes to marry an unbaptized person, he or she must obtain a *dispensation* from the diriment impediment of disparity of worship (cult). This particular attention is given to these mixed marriages in order to safeguard the Faith of the Catholic and to ensure the handing on of the Faith to the children.

## **8. Convalidation – help for invalid marriages due to lack of consent, a diriment impediment or neglect of the canonical form**

A practical question arises of how to rectify an invalid marriage. *Convalidation* is the canonical procedure for making the marriage valid for those marriages which, from their beginning, were invalid due to flawed consent, the presence of a diriment impediment, or a failure in following canonical form. There are two methods for convalidation: 1) *simple convalidation* and 2) *radical sanation*. Since these are matters of Church law, they directly affect only Catholics and those who marry Catholics.

The phrase, “having a marriage blessed,” is a popular way to refer to convalidations where the marriage comes into “being” in the eyes of God. With these marriages now recognized by God and Holy Mother Church, Catholic spouses, upon receiving the Sacrament of Confession, may now worthily receive the Holy Eucharist.

Let’s look at both methods of convalidation for those marriages with defects in marital consent.

As a rule, lack of valid consent in marriage (whether induced by fear or otherwise) must be supplied in the same way in which it had been previously lacking. Thus, if consent had not been given internally at the time of the wedding, it would be enough to supply the deficiency internally; but if the want of consent was also recognizable externally, through words, gestures, or general show of reluctance, the renewal would also have to be made externally, and is normally done in the form prescribed for contracting marriage.

When simple convalidation is used to rectify consent, it is a renewal of the consent by one or both parties, without the need to observe again the canonical form unless the form was defective and, of course, any impediment must have ceased or been dispensed from. The renewal of consent may be made in private and without witnesses but “the consent must be a new act of the will” (canon 1157). With this simple convalidation it now becomes a sacramental marriage. In the case of a natural marriage, with one Catholic spouse and one unbaptized spouse, the marriage does not become a sacramental marriage, but the natural marriage is now valid.

When *radical sanation* (*sanatio in radice*) or the "healing at the root" is used, it is a convalidation without the requirement of the renewal of consent (canons 1161-1165). After any impediment has ceased or been dispensed from, the Church's competent authority grants the radical sanation without the renewal of consent of the parties. In other words, the Church validates the marriage and dispenses the parties from renewing consent externally and publicly, by force of law, the marriage is considered to have been valid from the beginning. In effect, it is a retroactive validation.

Moralists call this "radical healing" because it now heals (by making valid) the marital consent (or root of matrimony) which was previously missing, so that the contract becomes valid and the benefits consequent on marriage may follow. Normally only the Holy See has authority to give a *sanatio*, but the Bishops also share in this power by delegation from Rome. Several conditions must be fulfilled, however, for such a "healing" to take place:

1. There must be a grave reason, as happens in the rare case where one or both parties cannot be asked (or induced) to express consent in the way required by the Church, or, in the still rarer case where neither party can be told of the invalidity of their previous marriage without great harm to themselves or others.
2. The invalidity of the contract must have come from a diriment (nullifying) impediment of Church (not divine) law or lack of form, (i.e., failure to marry before an authorized priest and two witnesses) or lack of free consent. We must point out that this privilege of "healing" for lack of valid consent does not apply to people whose impediment to a valid marriage was an existing marital bond, i.e., a previous valid marriage.
3. And finally there must be a continuation of matrimonial consent, for the obvious reason that if either or both parties never agreed to live as man and wife (or withdrew this intention), the Church cannot now step in and tell them they are married. Their deliberate agreement to be married cannot be supplied by anyone, not even by the Church.

## 9. Children born in invalid marriages

An invalid marriage is said to be "putative" if it has been celebrated in good faith by at least one party. Children who are conceived or born of a putative marriage are legitimate. *Legitimate* children, as defined by the *Code*

*of Canon Law*, are children born at least 180 days after the date the marriage was celebrated, or within 300 days from the date of the dissolution of conjugal life. It is important to note that *illegitimate* children are *legitimated* by the subsequent marriage of their parents, whether the marriage is valid or putative, or by a rescript of the Roman Pontiff (see canons 1061, §3; 1137-1140).

## 10. Prenuptial Instructions

The Church asks that persons who are about to be married be properly instructed in three areas of their new state of life:

- 1) on the holiness of the Sacrament of Matrimony,
- 2) their mutual obligations as husband and wife, and
- 3) their obligations to the children born of the marriage.

Since a valid marriage between baptized persons is a Sacrament, it is important to review what is a Sacrament. A Sacrament is defined as a sensible sign instituted by Christ to give grace. Christ Himself works through the Sacrament to confer distinctive graces upon the souls of the married spouses. Since the Sacrament of Matrimony is a Sacrament of the Living, it is efficacious or fruitful only when one's soul is in the state of grace. Importantly, the state of the soul does not determine whether a marriage is valid and sacramental. On the contrary, sacramental marriage is received validly even when one or both parties is in the state of sin. Such a person is really married but he does not have access to the graces associated with the Sacrament until the state of grace is recovered through sacramental Confession. Therefore, to prepare for the fruitful reception of the Sacrament of Matrimony, it is appropriate that both bride and groom (those whom are Catholic) receive the Sacrament of Penance before their wedding. In addition, if either of the parties has not been confirmed, the Sacrament of Confirmation should be received, if possible, before they are admitted to marriage (canon 1065). There are many reasons why Confirmation should be received before marriage. Among these is the fact that Confirmation strengthens the supernatural life. If there is anything that married people need, it is supernatural fortitude:

- The fortitude to undertake difficult responsibilities; and
- The fortitude to endure patiently the trials that God may send to the married spouses.

The sacramental character of marriage is at once a source of inspiration and a challenge to generosity for Catholics who understand the implications of their faith. Not unlike the Sacrament of Holy Orders, Matrimony was instituted by Christ to provide for the social needs of the Mystical Body. "Through matrimony, in which the contracting parties are ministers of grace to each other, provision is made for the external and duly regulated increase of Christian society, and, what is of greater importance, for the proper religious training of children, without which the Mystical Body would be in grave danger" (Pius XII, *On the Mystical Body of Christ, Mystici Corporis Christi*, #20).

Viewed in this light, marriage takes on a new significance. Catholics are men and women who belong to a supernatural society and so the procreation of children for them means far more than merely conserving the human race and providing for its orderly development; it means the obligation to preserve and increase membership in the Mystical Body. All the laws that nature has implanted in the two sexes to insure the welfare of mankind are sublimated by grace in the faithful for the common benefit of Christ's Church. Where natural instinct makes the two sexes attractive to each other, grace provides for a similar attraction to a higher level so that children will not only be physically brought into the world but might also be spiritually reborn in Baptism, educated in the Catholic faith, and nurtured into vital cells of the Body of Christ.

Hence, the Church's concern is for marriages within the Faith, experience proves how difficult it is for parents, who are biologically able to maintain the human species, to do the same for the mystical species of God's Kingdom if they are incompatible on religious grounds. For married Catholics, therefore, the command to increase and multiply is not only a precept of nature but also a command of revelation:

- of nature to cooperate with God in bringing human beings into the world; and
- of revelation to collaborate with the Holy Spirit in rearing members for the Mystical Body on earth and for the beatific vision after death.

Consequently, any interference by Catholics with the laws of procreation is doubly reprehensible:

- 1) for refusing to cooperate with God in His function of creating souls to infuse them in human bodies, and

- 2) for resisting His love in its desire to prepare new souls for the Kingdom of Heaven.

The mutual obligation of husband and wife thus becomes more than elevated common sense to help them get along nicely and avoid marital friction. They are duties born of a new social entity into which they have entered the Church of Christ, which depends absolutely on a harmonious partnership of its cells, in order that grace might flow effectively from the Head to the members. Any dissension within the cellular units is really discord in the Mystical Body – a disease or malfunction that inhibits the growth and well-being of that organism which God became man to establish. By Divine Providence, the cells of life that make up the Church are really pairs, mainly men and women who have vowed lifelong fidelity to each other; in the degree to which this fidelity is kept, will the Church be spiritually sound. Unless the married laity are strong in their family lives, the superstructure of Catholicism becomes a sham.

In the same way, Catholic parents assume duties towards their children that stem from something deeper than natural instinct or the exigencies of family life. On the premise that Baptism incorporates a child into the Body of Christ, his education and nurturing are actually means of sustaining and developing that Body in its human elements in a way that would not be possible without parental cooperation. Too often people suppose that the volitional response to God's grace, which is typical of the Catholic outlook on life, is no more than training character or shaping human personalities. They forget that these children not only have a soul, but that this soul is itself animated by another principle of life, *sanctifying grace*. Their parents therefore have a twofold task:

- 1) to rear their children along natural lines in all the qualities that prepare them for life in the world; and
- 2) to educate them in things of the Spirit in anticipation of the world to come.

Critics of Catholicism sometimes complain about the essential otherworldliness of the Church's ethic, which can place on their consciences heavy burdens that others, even other Christians, are spared. Catholic education is a case in point. To operate church-affiliated schools calls for self-sacrifice to the point of heroism, and young people getting married are not unaware of this dimension of their faith. They realize that matrimony is God's own way of calling on human beings to help Him redeem the world.

## 11. Choice of a Spouse

Anticipating the proximate preparation for a happy marriage is the care that young people should exercise in choosing their life's spouse. So much depends on the kind of person chosen that it is impossible to exaggerate its consequences or stress too much the prudence and wisdom needed to avoid making mistakes. "We were not meant for each other," is a favorite excuse for couples who may find out in the first month of their marriage how little they really knew about the other, and what a risk they were taking in following "love at first sight" or mere infatuation.

Time and again the Church warns Catholics to carefully deliberate in choosing the person with whom they are to live in great intimacy until death.

"They should in so deliberating, keep before their minds first the thought of God and of the true religion of Christ, then of themselves, of their partner, of the children to come, as also of human and civil society, of which wedlock is the fountainhead. Let them diligently pray for divine help, so that they may make their choice in accordance with Christian prudence, not led by the blind and unrestrained impulse of passion, nor by any desire for wealth or other base motive, but by a true and noble love and by a sincere affection for the future partner. Lastly they should ask the prudent advice of their parents regarding the person they plan to marry. Let them take this advice seriously, so as to be guided by the mature knowledge and experience of father and mother and receive on the threshold of marriage an increase of those blessings which God has promised to those who honor their parents" (Pius XI, On Christian Marriage, *Casti Connubii*, #115).

The wishes of parents are to be respected and seriously considered. But once children have reached maturity, they are not obliged to obey their parents regarding the choice of a spouse. Cultures differ immensely in their understanding of the role of parents for directing the marriage of their children. But at heart, the crucial factor is *true internal freedom* of the marrying parties. Being advised and counselled by the parents is one thing. But anything like coercion endangers the personal freedom that belongs to the essence of a marriage as a valid covenant between those who marry.

With that said, Americans have something to learn from the customs of other nations, where parents and relatives have more than consultative voice in the choice of their children's husbands and wives. This is not to advocate extremes of "planned marriages," nor even to suggest that men and women should be restricted in their liberty of choosing a spouse; but disastrous unions of thousands of incompatible personalities argue to indiscretion which might have been averted if only someone who knew both parties had been consulted beforehand. It is remarkable how emotions can obscure judgment when two people are in love, and how much a bit of foresight, along with prayer and sound advice can clarify the mind and not place an almost miraculous burden on divine grace to make up for the imprudence of romantic love.

Copyright © 2004, 2019 by Inter Mirifica