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Abstract: In this study the author undertakes an attempt of an integral interpretation of the Vaticanum II magisterium on the sacrament of matrimony. At the beginning he formulates a hypothesis which implies that next to the assumptions of an adequate anthropology and methodological remarks, which were made, lies an idea that "gives order" to the appropriate discourse in the area of *matrimonium christifidelium*. It is about the significant thesis which suggests that the "unity," paradigm of the contemporary ecclesiology, constitutes an inseparable hermeneutical key to the understanding of Christian matrimony. The concentration in the old code (CIC 1917) of regulations concerning *sacramentum matrimonii*, on the constitutive moment of entering into marriage (*matrimonium in fieri*), carried many implications of a theological and legal nature. The matter of this sacrament was defined as (mutual) giving of the right to the body to the other person, whereas the form as the acceptance of this right. In turn, the legalistic depiction of the sacramentality of matrimony and binding it with the condition of a rightfully received baptism, regardless of the presence or absence of faith, in practice by no means meant that baptism is to constitute a foundation of building a sacramental reality of matrimony. Such automatism—a result of a substantial and juridical approach—by misrepresenting, in a significant way, the personal core of the event of the sacrament, brought this sacrament closer to magic. This is where the significance of Council Fathers' work, aimed at overcoming the dualism between natural marriage and the sacrament of matrimony, stems from. The person who significantly contributed to the presentations of Christian matrimony, as closely connected with the secret of Christ, was a prominent theologian of law Eugenio Corecco. One of the rhetorical questions—that constitutes the structure of the fundamental part of the study—is as follows: Is it not desirable (or even essential) to interpret the most crucial code regulations of matrimonial law according to a proper "anthropological key," that is, through the prism of the Mystery of Incarnation—in relation to an internal dynamics of followers' (nupturients') affiliation to *communio Ecclesiae*?

Keywords: marriage, sacramentality of matrimony, adequate anthropology, theology of matrimony, matrimonial doctrine *Gaudium et Spes*, matrimonial law in CIC

Introduction

Saint John Paul II's two enunciations, derived from the 1982 and 1986 addresses to the Roman Rota, as well as a fragment of an article from the Catechism of the Catholic Church (1992)—all together three texts *explicite* referring to the magisterium of the 48th point of the *Gaudium et Spes* constitution—comprise the ideological structure of this deliberation. Naturally, this selection is not accidental. After all it was no one else than the Pope of the Family, whom the issue of a genuine interpretation of the conciliar teaching on the matrimony[1] pressed heavily on mind, and who did a lot to make sure that this teaching was interpreted in its entirety, with a particular allowance for the ecclesiologic doctrine.[2]

Therefore, the introductory constatation from the first of the evoked speeches: "The Council perceived matrimony as a love covenant,"[3] the Holy Father concludes by the means of the following bracket: "Matrimonial consent is an ecclesiastical act."[4] Whereas, in the second speech the following words are uttered: "Christian marriage is a sacrament, which causes a kind of consecration to God. It is a ministry of love, which, through its testimony, makes visible the meaning of the divine love [Triune God—A.P.] and the depth of conjugal gift […]."[5] Finally, article 1535 of the Catechism of the Catholic Church, which takes up the same thread, defines Christian matrimony alongside taking holy orders,

[1] See John Paul II, *Man and Woman He Created Them. A Theology of the Body 1,2–4*, trans. Michael Waldstein (Boston, Pauline Books and Media, 2006); see also Jan Paweł II, *Mężczyzną i niewiastą stworzył ich. O Jana Pawła II teologii ciała*, vol. 1–4, ed. Tadeusz Styczeń (Lublin: Redakcja Wydawnictw Katolickiego Uniwersytetu Lubelskiego, 1998).

[2] Let us recall the fact that the paradigm, formulated in such a way, is crowned in the pastoral constitution *Sacrae Disciplinae Leges* by the means of pope's famous sentence: "This new Code could be understood as a great effort to translate this same doctrine, that is, the conciliar ecclesiology, into canonical language." Ioannes Paulus II, "Const. Apost. *Sacrae Disciplinae Leges*" (25.01.1983), *Acta Apostolicae Sedis* [henceforth: AAS] 75 (1983–II).

[3] Ioannes Paulus II, *"Allocutio ad Sacrae Romanae Rotae Tribunalis Praelatos Auditores, Officiales et Advocatos coram admissos"* (28.01.1982), AAS 74 (1982): 450, n. 3.

[4] Ibid., 451, n. 5.

[5] Ioannes Paulus II, *"Allocutio ad Rotae Romanae praelatos auditores coram admissos"* (30.01.1986), AAS 78 (1986) 923, n. 3. Here we easily recognize reference to the words of the constitution: *coniuges christiani ad sui status officia et dignitatem peculiari sacramento roborantur et veluti consecrantur* – Vatican Council II, Pastoral Constitution on the Church in the Modern World *Gaudium et Spes* (7.12.1965), n. 48.

as a sacrament in the service of communion. "Through these sacraments those already *consecrated* by Baptism and Confirmation for the common priesthood of all the faithful can receive particular *consecrations*. […] 'Christian spouses are fortified and, as it were, *consecrated* for the duties and dignity of their state by a special sacrament.'"

All three papal enunciations, embedded in the content of the 48th point of the *Gaudium et Spes* constitution, reveal the Christocentric horizon of Christian anthropology, which constitutes the rudimental criterion for the adequate, that is, reaching the *integrum* of the human being and communion of persons, depictions of matrimony—both theological, as well as legal and canonical. Indeed, this Christocentric and at the same time par excellence personalistic vista is introduced by the earlier, it is safe to say, key sections of the aforementioned document. In the 22nd point the Council Fathers proclaim: the mystery of man is only truly explained in the mystery of the Incarnate Word. Jesus Christ, new Adam, already in the revelation of the mystery of God the Father and his love, reveals the fullness of man to the very man and shows him his highest vocation.[6] In the 24th point of the document the following, famous words, which, it is worth recalling, laid the foundations for John Paul II's *Theology of the Body*, were uttered: "Man, who is the only creature on earth which God willed for itself, cannot fully find himself except through a sincere gift of himself." Only within this context, the *passus*, taken out from 48th point of the Pastoral Constitution on the Church, gains its full meaning: "For as God of old made Himself present to His people through a covenant of love and fidelity, so now the Savior of men and the Spouse of the Church comes into the lives of married Christians through the sacrament of matrimony. He abides with them thereafter so that just as He loved the Church and handed Himself over on her behalf, the spouses may love each other with perpetual fidelity through mutual self-bestowal."

Naturally, this depiction of the ideological and subject matter structure should be accompanied by, especially in the face of the bold thesis proposed in the title ("a great stride"), a presentation of the main epistemological and methodological assumptions. First of all, it is not possible to escape the answer to the question what importance, among all Vaticanum II texts, taking the coherence and complementarity of Church's sources of *de matrimonio*[7] into consideration, shall we give to the "matrimonial" passuses of the *Gaudium et Spes* constitution. Similarly, a particular issue, in an obvious way connected with this question, requires taking a stand: What is the relation of these two passuses to the similar ones taken from the 11th point of the Dogmatic Constitution *Lumen Gentium*?

[6] Cf. Karol Wojtyła, *U podstaw odnowy. Studium o realizacji Vaticanum II* (Kraków, Polskie Towarzystwo Teologiczne, 1972), 64–69; Ioannes Paulus II, Litterae encyclicae *Redemptor Hominis* (4.03.1979), n. 11.

[7] Zob. Andrzej Pastwa, "Il matrimonio: comprensione personalistica e istituzionale." *Ius Ecclesiae*, vol. 25 (2013): 389–91.

In a "draft" attempt at facing these questions, by making use of outstanding experts' (theologians') opinions,[8] we can say:

1. There is no doubt that the magisterial statements of the 48th point of *Gaudium et Spes* have the same dogmatic status as the aforementioned statements included in the 11th point of *Lumen Gentium*.
2. The utmost important meaning of this fragment of the conciliar teaching should be confirmed—of the entire (!) 48th point, in relation to the remaining "matrimonial" verses of the *Gaudium et Spes* constitution; the mentioned fragment, although officially located within the sphere of the pastoral constitution, has a character of a doctrinal exposition; some passuses of the 49th and 50th points also include doctrinal content of the renewed theology of marriage; whereas within the area of practical theology the entire content of the 47th, as well as the 51st and 52nd numbers of the constitution should be located.
3. During a genuine analysis of the texts on the sacrament of matrimony, in *Lumen Gentium* and *Gaudium et Spes* constitutions, we should not lose sight of the time perspective in which these texts were created; also, what is equally important is the order the abovementioned documents were announced, while this fact also communicates to us the message that the fundamental content included in the chronologically first dogmatic constitution did not have to be repeated by the Council Fathers in the second pastoral constitution.
4. What harmoniously comes out to meet the attempt of an integral interpretation of the Vaticanum II magisterium on the sacrament of matrimony, next to the assumptions of an adequate anthropology and methodological remarks that were made, is the idea "ordering" the appropriate discourse of a theologian and a canonist in the area of *matrimonium christifidelium* that we are interested in. It is about the significant thesis that suggests that the "unity," paradigm of the contemporary ecclesiology, constitutes an inseparable hermeneutical key[9] to the understanding of Christian matrimony.

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[8] Karl Rahner, "La problematica teologica di una Costituzione pastorale," in *La Chiesa nel mondo contemporaneo. Commento alla Costituzione pastorale „Gaudium et spes"*, ed. Enzo Giammancheri (Brescia, Queriniana, 1966), 61–83; Otto Hermann Pesch, *Das Zweite Vatikanische Konzil. Vorgeschichte, Verlauf – Ergebnisse, Nachgeschichte* (Würzburg, Echter Verlag, 1994); Piero Barberi, *La celebrazione del matrimonio christiano. Il tema negli ultimi decenni della teologia cattolica* (Roma, CLV Edizioni Liturgiche, 1982).

[9] See Andrzej Pastwa, "Marriage in the Light of the Ecclesiological Paradigm of Unity. Selected issues," *E-Theologos*, vol. 3/2 (2012): 212–28.

The Antipodes of the Personalistic Thought of the Magisterial *de sacramento matrimonii*

The fruit of Vaticanum II is the discovery of the biblical depth of the idea of "covenant"[10] and a key decision undertaken by the Council Fathers to connect this idea with a renewed reality of the sacrament of matrimony in the ideologically innovative and theologically well prepared passuses of the 48th point of the constitution. The concept of *foedus coniugalis*[11] harmoniously connected in itself, traditionally present in the Catholic doctrine, the sacral aspect of the institution of matrimony[12] with, clearly underappreciated in the past, strictly human aspect. The "humanization" of matrimony conducted in such a way,[13] by giving robust foundations to the development of the theology of sacrament, was supposed to once and for all remove the historical burden, especially within the area of an incorrect, often hostile toward body, theological anthropology. Since it became clear that precisely this bodily relation (biblical *una caro*[14]), in its holistic, personal, and human context, is the carrier of sacramentality,[15] it was important not only to conduct a revision of concepts, but, first and foremost, define the adequate ethos of matrimony and at the same time enter into the depth of truth about a person and matrimonial communion of persons.[16]

It is worth recalling the fact that at the foundations of the 1917 codification logic lay an assumption that the sacrament of matrimony is a reality that is legally perceptible, and, what is more, possible to codify holistically. Likewise understood was the content of the 1012th canon, opening title VII of the 3rd book: *De matrimonio*—an important matrimonial contract constitutes not only

[10] Cf. Norbert Lohfink, „Der Begriff ‚Bund' in der biblischen Theologie," *Theologie und Philosophie*, vol. 66 (1991): 161–76.

[11] *Gaudium et Spes*, n. 48.

[12] Cf. Vatican Council II, Dogmatic Constitution on the Church *Lumen Gentium* (21.11.1964), n. 11; Vatican Council II, Decree on the Apostolate of the Laity *Apostolicam Actuositatem* (18.11.1965), n. 11.

[13] Undoubtedly what has a symbolic meaning are the words of the *Gaudium et Spes* constitution: "Ille autem amor, utpote eminenter humanus, cum a persona in personam voluntatis affectu dirigatur, totius personae bonum complectitur," *Gaudium et Spes*, n. 49.

[14] Gen 2, 24.

[15] Cf. Otto Hermann Pesch, *Ehe im Blick des Glaubens*, in: *Christlicher Glaube in moderner Gesellschaft*, ed. Franz Böckle, Franz-Xaver Kaufmann, Karl Rahner, and Bernhard Welte, Bd. 7 (Freiburg–Basel–Wien, Herder, 1981), 25–29.

[16] See Jan Paweł II, *Mężczyzną i niewiastą stworzył ich. O Jana Pawła II teologii ciała*, vol. 1: *Chrystus odwołuje się do „początku*," 59–68.

the image of the sacrament but is also identical with this sacrament.[17] The same premises had also an impact on the fact that the entire code *ius matrimoniale* was consciously formed as, concentrated on the *fieri* of the marriage, the law on entering into marriage.[18]

The concentration in the old code (CIC 1917) of regulations concerning *sacramentum matrimonii*, on the constitutive moment of entering into marriage (*matrimonium in fieri*), carried many implications of a theological and legal nature. The theory of inseparability (identity) of the matrimonial contract and the sacrament, determined the transitory character of the latter one. Consistently, marriage could not be perceived as a permanent sacrament. Only the contractual moment of exchanging the consent with the omission of the matrimonial community of life (*matrimonium in facto esse*) was connected with the sacrament. In this case unconvincing were the claims of neo-Scholastics, who suggested that it is precisely in the liturgy of church wedding that some and real immanence of the mystery of Christ's unification with the Church is revealed,[19] since they admitted that this liturgy and priest's blessing do not belong to the nature of the sacrament.[20]

The neo-Scholastic dogmatism complemented the code principle *eo ipso sacramentum* with the definition of the matter and form of the sacrament of matrimony. Since the formal element (so the internal sign) of the matrimonial contract was formulated as a mutual and an exclusive right to the body of the other person, *in ordine ad actus per se aptos ad prolis generationem*,[21] nothing else was more apt to denominate this aim than *ius in corpus*. Hence, the matter of this sacrament was the (mutual) giving of the right to the body to the other person, whereas the form was the acceptance of this right.[22]

The legalistic depiction of the sacramentality of matrimony and binding it, in harmony with the tradition, with the condition of a rightfully received baptism, regardless of the presence or absence of faith,[23] in practice meant that

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[17] Objectivized (objectified), contract depiction of *sacramentum matrimonii* gave an assumption to reach a conclusion that in the understanding of the 1917 Code the identity formula, between a matrimonial contract of the baptized and the sacrament, was used not only in the legal meaning but also a *stricte* theological one. See Peter Huizing, "La conception du mariage dans le code, le concile et le „Schema de Sacramentis," *Revue de droit canonique*, vol. 27 (1977): 137.

[18] Cf. Urs Baumann, *Die Ehe – ein Sakrament?* (Zürich, Bensiger, 1988), 85.

[19] Cf. Pierre Adnès, *Le marriage* (Tournai, Desclee, 1963[2]), 185.

[20] See Ludwig Ott, *Grudriß der Dogmatik* (Freiburg–Basel–Wien 1978[9]), 557.

[21] CIC 1917, can. 1081 § 2.

[22] See Ott, *Grudriß der Dogmatik*, 556–557; Adnès, *Le mariage*, 147–49.

[23] Cf. Eugenio Corecco, *Die Lehre der Untrennbarkeit des Ehevertrags vom Sakrament im Lichte des scholastischen Prinzips „Gratia perfecit, non destruit naturam,"* Archiv für katholisches Kirchenrecht" [henceforth: AKKR] 143 (1974): 425–28; Julio Manzanares, „Habitudo matrimonium baptisatorum inter et sacramentum: omne matrimonium duorum baptizatorum estne necessario sacramentum?" *Periodica de re morali, canonica, liturgica* vol. 67 (1978): 35–37.

the baptism of the man and the woman gives their marriage a sacramental character, which was not really identical with the claim that baptism is to constitute a foundation of building a sacramental reality of matrimony.[24] Automatism of this type—a result of a substantial and juridical approach—by misrepresenting, in a significant way, the personal core of the event of the sacrament, brought this sacrament closer to magic.[25]

The theory of a formal identity of the contract and the sacrament, or a strong accentuation of the juridical layer connected with it, was also used to justify the crucial virtue: indissolubility of matrimony. It was reasoned that since the redemptive relation Christ–Church that lies at the foundations of this sacrament is indestructible, then also matrimony, a sign and personalization of this theological reality, has to be absolutely indissoluble. This sacramental "real symbol" serves, therefore, not so much to emphasize—in a personal and ecclesial dimension—the unshaken faithfulness and love of Christ in relation to the Church, but, first and foremost, to prove the irrefutability of the legal fact that a valid marriage contract of baptized people is indissoluble.[26]

Similarly *bonum sacramenti*, which corresponds to the virtue of indissolubility, par excellence revealed the juristic and institutional, as well as speculative character. It was, however, overlooked that the definition of sacramentality as a matrimonial well-being, so describing the legal structure of matrimony (*in facto esse*) the effect of entering into marriage, remains in tension toward the *eo ipso sacramentum* principle, according to which the sacramentality is inseparably bound (identical) only with the contract (*matrimonium in fieri*).[27]

At the same time it is difficult not to notice that the very indissolubility was conceptually clearly separated from the matrimonial faithfulness and the significant virtue of identity. If the three abovementioned concepts were given content, on the one hand—personal, on the other—relational, that is, directed toward a personal relation of partners, then the three concepts would correspond with one another in their essence. Quite different doctrinal assumptions lay at the foundations of the marriage law in the 1917 code. Since this law presented the concept of matrimony with such a depiction of unity, faithfulness, and indissolubility, according to which by no means the spiritual and personal well-being or benefits of nuptials were put in the foreground. Indissolubility was understood not as a moral, life-long obligation of faithfulness toward the partner, but *explicite*

[24] Cf. Winfried Aymans, *Gleichsam häusliche Kirche. Ein kanonistischer Beitrag zum Grundverständnis der sakramentalen Ehe als Gottesbund und Vollzugsgestalt kirchlicher Existenz*, AKKR 147 (1978), 434–36.

[25] Helmuth Pree, *Die Ehe als Bezugswirklichkeit – Bemerkungen zur Individual- und Sozialdimension des kanonischen Eherechts*, Österreichisches Archiv für Kirchenrecht, 33 (1982): 345.

[26] Baumann, *Die Ehe*, 83, 135–36.

[27] Ibid., 93–94.

as a feature of the *vinculum*[28] institution. If we additionally take into consideration the remaining Augustinian goods in CIC 1917: *bonum prolis*[29] and *bonum fidei*,[30] then it is not possible to deny that it was finally determined that the vision of a marriage should be extremely institutionalized, materialistic, and procreative, perceived as an identity of the sacrament with the contract.

Mysterium unitatis: Matrimony of the Baptized and God's Mystery

The doctrine on the sacrament of matrimony, renewed in the Second Vatican Council magisterium (mainly in the *Gaudium et Spes* constitution), with an inexhaustible abundance of content connecting *vetera et nova*, still remains the subject of in-depth theological research. Pope of the Family John Paul II emphasized their timeliness, when in the 2003 *Address to the Roman Rota* he considered important the topic of: the special *relationship that the marriage of the baptized has with the mystery of God*, a relationship that, in the new and definitive covenant in Christ, assumes the dignity of a *sacrament*. Natural and supernatural dimension—the pope continued to preach—"are not two juxtaposed aspects: rather, they are intimately connected as are the truth of the human person and the truth of God."[31] The message sent by the Holy Father was amply clear: we still need endeavors, as part of the activity of the teaching domain

[28] „Indissolubilitas opponitur divortio et excludit solutionem vinculi viventibus coniugibus […] illa firmitas vinculi coniugalis indissolubilis peculiariter augetur in matrimonio baptizatorum ex dignitate sacramenti qua huiusmodi matrimonium donatur," Franz-Xaver Wernz, Pedro Vidal, Philippo Aguirre: *Ius canonicum*, vol. 5 (Roma 1946[3]), 34, n. 27. Inseparability (*bonum sacramenti*) depicted is such a way meant firstly an institutional protection of the impossibility to dissolve the bond by a mutual consent of the spouses, and only later a moral and legal ban on divorce, Pree, *Die Ehe als Bezugswirklichkeit*, 348.

[29] *Bonum prolis* as a counterpart of the most important aim of matrimony also showed a strongly overemphasized social function of this institution. Therefore, matrimony, according to the CIC 1917 standards, appeared to be a legally protected community of sexual and reproductive functions, Pree, *Die Ehe als Bezugswirklichkeit*, 347.

[30] *Bonum fidei* had in CIC 1917 its direct counterpart in a crucial attribute of unity. This "Good" was to some extent employed by the most important matrimonial aim and made subordinate to it. The legal obligation of faithfulness was, therefore, perceived as a simple reflection of the legal bond, Pree, *Die Ehe als Bezugswirklichkeit*, 347–48.

[31] Ioannes Paulus II, *"Allocutio ad Romanae Rotae iudices"* (30.01.2003), AAS 95 (2003): 393, n. 2.

of the Church, as well as theologians' (also canonists'), aimed at overcoming the dualism between natural marriage and the sacrament of matrimony.[32]

The person who significantly contributed to the presentations of Christian matrimony, as closely connected with the mystery of Christ, was a prominent theologian of law Eugenio Corecco. One of the rhetoric questions, which is today worth formulating, based on the research by this highly-regarded canonist, is as follows: Is it not desirable (or even essential) to interpret the most crucial code regulations of matrimonial law according to a proper "anthropological key," that is, through the prism of the mystery of Incarnation—in relation to an internal dynamics of followers' (nupturients') affiliation to *communio Ecclesiae*? It is difficult to miss the fact that the accuracy of this question is obviously consonant with the implications of the principle of insolubility of matrimonial sacrament and covenant affirmed by Eugenio Corecco.[33] This principle, based on the Christological and Trinitarian foundations, reflects well the exceptional establishment of matrimony in God's redemptive plan. The relationship of the betrothed, since the dawn of time, conveys a sacral and "sacramental" character, since this relationship from the "beginning," invariably through Christ, and with Christ, and in Christ, expresses the participation of the human "we" in the mystery of the Holy Trinity (God's "We"). Both realities: covenant (Old Testament mystery "sign") and the "event" of sacrament (participation in the New Testament *mystērion*: love of Christ-the Betrothed to Church-the Betrothed), are inseparable—such as the economics of Redemption cannot be separated from the economics of Creation.[34]

The significance of the creative thought *de sacramento matrimonii* of a Swiss canonist[35] characterizes well the emphatically formulated warning against doctrinaire depreciation at the plane of nupturients' personal right to the act of faith at the moment of entering into marriage, which goes hand in hand with the interpretation of the *eo ipso sacramentum* principle, according to a substantial and juridical logic of the 1917 code (with the help of the

[32] Ibid.

[33] Eugenio Corecco believed this principle to be one of the most ingenious achievements of the entire theological reflection on Christian matrimony. In such a way the truth about the fact that the matrimony as a natural, rooted in creative economy, reality achieves its fullness in the sacrament the same way as the Act of Creation fulfills itself in the Act of Redemption. Corecco, *Die Lehre der Untrennbarkeit*, 428.

[34] Ibid., 428–29.

[35] Eugenio Corecco many times expressed a belief that a renewed conciliar matrimonial doctrine radically postulates a change of paradigm in canonical *ius matrimoniale*. It is about working out such system changes that would make it possible to, on the one hand, have the depiction of matrimony more concentrated on ecclesiology than on the very theology of sacrament, on the other, to have the system based more on the idea of sacrament than on a traditional definition of contract, Corecco, *Il matrimonio nel nuovo Codex Iuris Canonici. Osservazioni critiche*, in *Studi sulle fonti del diritto matrimoniale canonico* (Padova: CEDAM, 1988), 105–30.

so-called sacramental automatism—a "mechanical" coupling of the sacramentality of matrimony with a pure fact of both nupturients' baptism). The crux of the problem, according to the author, lies in an unambiguous declaration whether it is possible to adopt selectively the conciliar theology of matrimonial covenant in the canon law? Is it proper to ignore the fact that Christ, the creator of God's image in the baptized: the man and the woman, is the real creator of matrimonial *communio personarum* (and not the very contract!) to the image of the Trinitarian "We"? Are not *christifideles* (man's "I", woman's "I," both belonging to Christ) the real subject of the covenant, with faith as a concrete existence of a person experiencing the "already" of Redemption and the consciousness of himself as a member of the Mystical Body of Christ—the Community of the Redeemed[36]? If so, is it not a misunderstanding to create a false image of Christian matrimony, when the believer (*christifidelis*) is replaced by "I" with an "individualistic" subjectivity? Is it possible to reduce the act of covenant to a pure *ratio* (clear "freedom")—without *fides* (in the understanding of *Redemptor hominis* encyclical), that is, a holistic existential engagement of a human "already" redeemed, realizing *in Christo* according to the paradigm of "Trinitarian image of God"? Then if the baptism transforms ontically and moulds the human being so that he or she becomes a member of Christ's Body, placed immanently in His Presence, can the "yes" of spouses (*fides et ratio*) and "yes" toward the Church of Christ in this covenant (consent) be external in relation to each other? Is it not more about the participation of the baptized betrotheds in the mystery—Christological, and finally Trinitarian—dynamics of giving oneself to the other person in God? Following Eugenio Corecco's train of thought we eventually reach the crux of the problem: is it not true that only a consistent revival of the matrimonial doctrine conducted in the spirit of Vaticanum II theological anthropology (in authoritative horizon of the magisterial encyclicals: *Redemptor Hominis* and *Fides et Ratio*, as well as John Paul II's *Theology of the Body*) will allow us to overcome the dichotomous perception of the moment of establishing *sacramentum matrimonii*: the act of will (*ratio*) and the act of faith (*fides*)[37]? Then the constatation, which argues that (Christian) matrimony not so much has to be but is a legal order, and the entire ethical substance of the covenant ("the event of the sacrament") carries legality with itself, proves authentic.[38]

[36] What reflects it very well is can. 226 (CIC 1983) on a communion calling in marriage and family: "According to their own vocation, those who live in the marital state are bound by a special duty to work through marriage and the family to build up the people of God (§ 1). Since they have given life to their children, parents have a most grave obligation and possess the right to educate them. Therefore, it is for Christian parents particularly to take care of the Christian education of their children according to the doctrine handed on by the Church (§ 2)."

[37] See Corecco, *Il matrimonio nel nuovo Codex*, 115–21.

[38] Cf. Giorgio Zannoni, *Il matrominio canonico nel crocevia tra dogma e diritto. L'amore avvenimento giuridico* (Genova: Marietti, 2002), 96, 489.

The conclusions that follow from the message of the prominent Swiss canonist about overcoming the harmful dichotomy at the line: contract–sacrament, emerge immediately. Firstly, we have to reject the incorrect, at the very anthropological "roots," scheme of two intentions: contractual (consensual will) and sacramental (the will to accept *sacramentum matrimonii*, which suggests the presence of faith in this sacrament).[39] Secondly, new efforts have to be taken (both in the doctrine as well as body of rulings), to not only refrain from obfuscating the theological and canonical, par excellence ecclesiological, truth about the sacrament of matrimony as an "event of faith," but first of all indefatigably promulgate and promote this truth.

It is also worth to ponder over the results of research conducted by a different expert on this subject matter. Matrimony ingrained in the mystery of Christ creates the, present in the history of humankind, fundamental structure of the love of God's Betrothed to Church-the Betrothed[40]—such a shape of the matrimonial covenant *in Christo*, in the form of real sign of the redemptive act and the potential participation of Christian spouses in the Communion of Divine Persons, gave Giorgio Zannoni, the author of a famous monograph *Il matrimonio canonico nel crocevia tra dogma e diritto*, an assumption to pose serious questions. One of the most important is the question whether the legal description of the sacrament of matrimony in the Code of Canon Law is an optimum description.

Even if we keep ourselves at distance in the face of some too far-reaching theses of the monograph,[41] the conclusions from the analysis of the code matrimonial law, undertaken by the author, clearly show that the new chapter *aggiornamento* of the matrimonial doctrine—initiated by the means of the inspired verses of the *Gaudium et Spes*—was by no means completed. The renewed Church legislation *de sacramento matrimonii* in the 1983 code did not ultimately get through the lingering in the canonist tradition, created or strengthened by neo-Scholastic anthropology, dichotomies: spirit–body, nature–grace, contract–sacrament, act of reason–act of faith (consent), subjective truth of matrimonial covenant–objective truth. The Italian canonist, inspired by Eugenio Corecco's thought, ponders on the system coherence of the concepts *ordinatio* (with its institutional and non-personalistic connotations) or *elevatio* (with a hidden naturalistic meaning) in can. 1055, which defines matrimony. Not without reason does he establish the lack of the *sacramentum* dimension on the central canon 1057 § 2 that defines the matrimonial consent.

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[39] Cf. Mario Francesco Pompedda, "Intenzionalità sacramentale, in Matrimonio e Sacramento" [*Annali di dottrina e giurisprudenza canonica*, vol. 32], (Città del Vaticano: LEV, 2004), 41.

[40] Cf. *Lumen Gentium*, n. 11; *Gaudium et Spes*, n. 48.

[41] See Giorgio Zannoni, *Il matrominio canonico nel crocevia tra dogma e diritto. L'amore avvenimento giuridico*, reviewed by Andrzej Pastwa (Genova: Marietti, 2002), in *Śląskie Studia Historyczno-Teologiczne*, vol. 38, 2 (2005): 507–10.

Indeed, in the course of the *ius matrimoniale* reform, the highly harmful reduction of matrimonial consent to a commitment of a contractual type, in which the objectively expressed sexuality of an ahistorical human remains at the service of the procreative aim (*ius in corpus*), was discarded. What was also thrown away was the useless and harmful ballast of contractual depictions—rightly assuming that a contract is not capable of expressing the truth of the sacramental act and the redemptive Mystery cannot be reduced to external reality in relation to the acting entities: Christ and the spouses. The concept of "institution" (with the main postulate: releasing *ius* from abstract and ahistorical conceptions), worked out as reaction to the contractualism, by treating matrimony as an interpersonal relation, also shows inadequacy.[42] Even though institutionalism looks for a crucial core of the matrimonial communion in the existential concrete, it cannot secure a harmonious synthesis between *fieri and esse* of matrimony. The significant absence of this optics is depicted by dichotomies: between the institutional aim and an individual entity, which realizes it; between the personal sacramental order and the social and legal reality. Therefore, *institutum* falls into an institutionalistic type of reduction: although it presents matrimony as a relation, it actually remains outside in relation to the sacramental covenant: personal meeting and the act of faith.

Meanwhile, as Giorgio Zannoni rightly deduces, the sacrament of matrimony is the reality of an ecclesial and institutional nature, and its communal interpersonal knot is created not only by the spouses but also by the Person of Christ, who dwells among "his own" in the way of institutionalized *communio*. Therefore, treating matrimony as an institution, we should not forget that the latter one should be perceived in connection with "charisma" (by the principle of coexistence). Only such renewed concept of institution "adjoins" the semantic horizon of the central concept of the contemporary Catholic matrimonial doctrine: *matrimoniale foedus*.

Final Remarks

The Christian spouses' covenant, in the depiction of the *Gaudium et Spes* constitution, is an act of Mystery, which takes place in the bodily dimension of the personal "I." Sexuality constitutes a mysterial road, on which human-person experiences the other inside his "I," in order to, in the act of self-determina-

[42] Giorgio Zannoni, *Il matrominio canonico nel crocevia tra dogma e diritto*, 145–54, 163–71, 412–18, 487–97.

tion—choice, which the matrimonial covenant is,[43] enter with him into a permanent relation—indissoluble "unity of two" (*una caro*). The thing is about a mutual act, undertaken by a given man and a given woman, of establishing, according to their sexual complementarity, matrimonial co-identity "here and now."

Saint John Paul II's extraordinary testimony of understanding the truth of the "beginning": "man and woman he created them"—finally: in the dimension of covenant and grace (sacrament), is based firmly on the anthropological realism, "defined" in such a way by the Council. Threefold greed, the effect of the original sin, does not destroy the ability to read the "body language," in which the sacramental sign is formed. In the constitutive moment of expressing matrimonial consent—based on the immanent personal dynamism: sexual complementarity—entering into relation with the other and binding a matrimonial knot in covenant, signifies a real transformation of a person: "she" belongs to "him" as an aim and calling (*destinatio*), and vice versa. What is connected with the new identity "we" constituted in such a way: "being one for the other" is, according to the logic of gift, a new dimension of tasks—rights and duties, implied by nuptiality and parenthood.

However, the concept of *matrimoniale foedus* open to the mysterial reality (and exactly like that, rediscovered in the conciliar and post-conciliar magisterium) carries, first and foremost, legible Christological and ecclesiological connotations. Indeed this lifelong covenant of baptized spouses constitutes—in Christ—an "effective sign" of the Sacrament of Redemption (eternal Covenant of the he-Betrothed and she-Betrothed), which the Church defines and realizes in the "house" form.[44] That is how the real meaning of matrimony *in Christo*, sacral and sacramental "community of the entire life," is unveiled. In the Christological perspective, in which *ordo creationis* and *ordo redemptionis* perfectly interweave, a revival of the incipient sacrality of the matrimonial meeting, in which Christ himself defines the way of giving oneself to the other in matrimonial covenant (realized in Christ), takes place: in the initializing the sacrament of matrimony love meeting of persons, the personal gift is done by the Christian—"I" that belongs to Christ.[45]

Here it is most visible how valuable is Benedict XVI's magisterial thought from his last address to the Roman Rota (2013) on the subject of the common linguistic stem that the words *fides* and *foedus* have in Latin—if we bear in mind that using the latter one the *Gaudium et Spes* constitution, and later the Code of Canon Law, define the matrimonial reality as an irrevocable covenant of love. If the mutual trust (*fides*) of a man and a woman is the essential foundation

[43] Cf. Benedictus XVI, *"Allocutio ad sodales Tribunalis Romanae Rotae"* (29.01.2009). AAS 101 (2009): 127.

[44] *Lumen Gentium*, n. 11.

[45] CIC 1983, can. 1055 § 1.

of covenant (*foedus*), then—as the pope teaches—"on the theological plane the relation between faith and matrimony gains an even deeper meaning."[46]

Indeed, the Christocentric optics, so clearly highlighted in the sentence derived from the *Gaudium et Spes* constitution, quoted at the beginning: "the Savior of men and the Spouse of the Church comes into the lives of married Christians through the sacrament of matrimony"[47]—remains the key to overcoming not only the "title" dualism, but also all other dualisms in the Catholic *de matrimonio* doctrine. The subject of covenant in the relationship of the baptized is *Christi-fidelis*—the person bringing to the matrimonial "we" his/her identity and existence *esse in Christo*; a person who—potentially (!)—experiences through faith: the "now" of the Redemption, experiences mutually with wife/husband the participation in the Community of the Redeemed—Mystical Body of Christ. If so, then the human "we" of the matrimonial covenant, sacramentally reflecting the truth of Trinitarian "We," is by no means a sum of autonomous "I"–"you" (subjectivity of understood "individualistically"); just the opposite, "we" is the constitutive dimension of person, which in the covenant defines the entire dynamics of giving oneself to the "other" in the "Other"—*per Christum*, *cum Christo et in Christo.*

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[46] Benedict XVI, *"Allocutio ad Romanae Rote Tribunal"* (26.01.2013), AAS 105 (2013): 168, n. 1.

[47] *Gaudium et Spes*, n. 48.

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Andrzej Pastwa

Gaudium et Spes : un grand pas visant à surmonter le dualisme entre le mariage naturel et le sacrement de mariage

Résumé

Dans le présent article, l'auteur tente d'interpréter de façon intégrale le magisterium Vaticanum II sur le sacrement de mariage. Au début, il formule l'hypothèse qu'à la tâche de recherche ainsi définie—à côté des principes de l'anthropologie adéquate et des remarques méthodologiques effectuées—est harmonieusement favorable l'idée « arrangeant » le discours adéquat dans le domaine de *matrimonium christifidelium*. Il s'agit d'une thèse importante que « l'unité »—paradigme de l'ecclésiologie contemporaine—constitue la clé herméneutique indispensable à la compréhension du mariage chrétien. La concentration dans le code de 1917 des réglementations concernant *sacramentum matrimonii* sur la base du moment constitutif du contrat de mariage (*matrimonium in fieri*) entraînait beaucoup d'implications sérieuses d'ordre théologico-juridique. La matière du sacrement était définie comme le fait de donner (de façon mutuelle) à l'autre personne le droit à son corps, tandis que la forme—le fait d'accepter ce droit. Par contre, la présentation législative du caractère sacramentel du mariage et son attachement à la condition d'un baptême valablement reçu, indépendamment de la foi ou de son manque, ne signifiaient pas en pratique que le baptême doit constituer un fondement indispensable à l'établissement de la réalité sacramentelle du mariage. Ce type d'automatisme—effet d'une approche réellement juridique—, tout en falsifiant de manière essentielle le noyau particulier de l'événement du baptême, approchait le sacrement de la magie. D'où l'importance de l'ouvrage, entrepris par les pères du Concile, visant à surmonter le dualisme entre le mariage naturel et le sacrement de mariage. Eugenio Corecco, théologien éminent de droit, a apporté sa contribution significative à la présentation du mariage chrétien comme étant strictement lié au mystère du Christ. L'une des questions rhétoriques inspirantes—qui constituent le fond de la partie principale de l'article—est suivante : n'est-il pas désirable (et même nécessaire) d'interpréter les réglementations les plus importantes du droit matrimonial selon la « clé anthropologique » appropriée, c'est-à-dire à travers le prisme du mystère de l'Incarnation, par rapport à la dynamique intérieure de l'appartenance des fidèles (ceux qui s'apprêtent à contracter le mariage) à *communio Ecclesiae* ?

Mots clés : mariage, sacrement de mariage, anthropologie adéquate, théologie de mariage, doctrine matrimoniale *Gaudium et Spes*, droit matrimonial dans CIC

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Gaudium et Spes: il passo miliare nel vincere il dualismo tra il matrimonio naturale e il sacramento del matrimonio

Sommario

Nel presente studio l'Autore intraprende una prova di lettura integrale del magistero del Vaticanum II sul sacramento del matrimonio. Nell'introduzione viene formulata l'ipotesi secondo la quale a tale compito di analisi così definito, accanto alle premesse di antropologia adeguata e alle osservazioni metodologiche avanzate, viene incontro armoniosamente l'idea „che regola" il discorso adeguato nell'area del *matrimonium christifidelium*. Si tratta dell'importante tesi secondo la quale "l'unione"—paradigma dell'ecclesiologia contemporanea—costituisce la chiave ermeneutica indispensabile per la comprensione del matrimonio cristiano. La concentrazione nel codice del 1917 dei regolamenti riguardanti il *sacramentum matrimonii* sul momento costitutivo della contrazione del matrimonio (*matrimonium in fieri*) portò molte implicazioni serie di natura teologico-giuridica. Come materia del sacramento veniva definito il dono (reciproco) all'altra persona del diritto al corpo mentre come forma l'accettazione di tale diritto. Invece la concezione legalistica della sacramentalità del matrimonio e il vincolare la stessa alla condizione del battesimo ricevuto con validità, indipendentemente dalla presenza o dall'assenza della fede, nella pratica non significava affatto che il battesimo dovesse costituire il fondamento per costruire la realtà sacramentale del matrimonio. Questo genere di automatismo—effetto dell'approccio oggettivo-giuridico—adulterando in modo essenziale il nucleo personale dell'evento del sacramento, avvicinava il sacramento alla magia. Da ciò risulta l'importanza dell'opera intrapresa dai padri del Concilio per vincere il dualismo tra il matrimonio naturale ed il sacramento del matrimonio. Un contributo notevole nella presentazione del matrimonio cristiano come strettamente unito al mistero di Cristo fu apportato dall'eminente teologo del diritto Eugenio Corecco. Una delle domande retoriche ispiratrici che costituiscono la trama della parte fondamentale dello studio suona nel modo seguente: non è richiesto (e persino necessario) che le più importanti norme del codice del diritto del matrimonio siano lette secondo una "chiave antropologica" adeguata ossia attraverso il prisma del mistero dell'Incarnazione—in relazione alla dinamica interiore dell'appartenenza dei fedeli (nubendi) alla *communio Ecclesiae*?

Parole chiave: matrimonio, sacramento del matrimonio, antropologia adeguata, teologia del matrimonio, dottrina del matrimonio *Gaudium et Spes*, diritto matrimoniale nel CIC