

## **DEVELOPMENT OF OFFICIAL CATHOLIC MORAL TEACHINGS ON MARRIAGE DURING THE PAST 50 YEARS**

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### **Abstract**

A clear sign of the presence of the Holy Spirit in the Church as promised by Jesus is the gradual development of her own doctrine so that generations of various ages could understand clearly God's revelation in and through the Church. Such development or growth is also a sign that the Church is a living organism. The Church's official teachings with regard to issues linked with marriage are no exception to such development. In this article, an effort is made to highlight some of the main developments in such teachings during the past 50 years, first with regard to marriage in general, and then, under eight specific themes.

**Keywords:** Marriage, Sexuality, Natural Family Planning, Responsible Parenthood, Ends of Marriage, Divorce, Homosexuality, Mixed Marriages

### **Introduction**

It is universally agreed that the Second Vatican Council was a watershed for the renewal of Catholic living. Although there have been various debates with regard to the interpretation of the conciliar

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teachings during the past 50 years,<sup>1</sup> there have also been clearly marked developments in the official teaching with regard to Catholic doctrine, based often on those very conciliar teachings. For example, Margaret Farley expresses the basic radical changes in the Church's understanding of human sexuality in vivid language when she writes:

In the twentieth and twenty-first centuries, [these] foundations of sexual ethics began to be questioned. New biblical, theological and historical studies of the roots of moral norms, new understandings of sexuality itself and new shifts in economic and social life all contributed to major developments even in Catholic ethics. The dominant historical motifs all underwent significant changes. The idea that the procreation of children is the sole justification of sexual activity is gone (the shift is visible in the documents of Vatican II, in *Humanae Vitae* and subsequent church teaching). The view of sexuality as fundamentally disordered is also pretty much gone from Catholic thought. Although moral theologians still underline the potential of sex for sinfulness (as in sex abuse, rape, exploitation, adultery and so forth), the preoccupation with its destructive power that used to dominate Catholic discussion of sex has been seriously modified.<sup>2</sup>

Since marriage is the fundamental and necessary framework within which human sexual acts are legitimately expressed, in view of the above-mentioned changes in the Church's understanding of human sexuality, it is important to note that the understanding of the concept of marriage too, has gone through developments in recent decades. In order to highlight the radical changes the concept of marriage in general has gone through in the Catholic tradition during the past 50 years, it suffices to consider the description of marriage in one of the popular Moral Manuals that was used in seminaries to teach moral theology to the future priests, just prior to Vatican II:

Marriage is the lawful contract between man and woman by which is given and accepted the exclusive and perpetual right to those mutual bodily functions which are naturally apt to generating offspring. The primary purpose of the contract is the generation and education of offspring; its secondary purpose is mutual help and allaying of concupiscence (c. 1031, 1). When entered into by baptized Christians it is a sacramental contract, inasmuch as the contract has been raised by Christ to the dignity of a Sacrament.<sup>3</sup>

It is sufficient to contrast this pre-Vatican II Manualistic definition of marriage with the description of it in *Gaudium et spes*, 47-51.

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<sup>1</sup>Massimo Faggioli, *Vatican II: The Battle for Meaning*, New York: Paulist Press, 2012.

<sup>2</sup>Margaret A. Farley, "Love Shaped and Grounded in Faith," *The Tablet*, 27 September 2014, 11.

<sup>3</sup>Henry Davis, *Moral and Pastoral Theology*, Vol. IV, Eighth Edition (Revised and Enlarged), London: Sheed and Ward, 1959, 53.

Although one does not find a clear-cut definition of marriage as such in GS, it is referred to therein by a range of rich Biblical and Personalistic phrases (based on modern human sciences) such as an “intimate community (*consortium*)<sup>4</sup> of love and life,” an “irrevocable personal consent,” an “intimate union,” “a life-long partnership,” etc. Some of the salient radical changes in GS (in contrast to the pre-Vatican II concept of marriage) are<sup>5</sup>:

- The use of Personalistic and biblical terms to describe marriage, instead of non-personal juridical terms.

- The use of the biblical term ‘covenant’ (*foedus*) to describe Marriage, instead of the impersonal juridical term ‘contract’ (*contractus*).

- No hierarchy of ends of marriage is mentioned. Rather, the inherent link between these two ends is highlighted: “Marriage and married love are by their character ordained to the procreation and bringing up of children” (48, 50). Earlier, they were just two isolated ‘ends’ which existed independently from each other; in fact, GS calls marriage “a communion of love and life” (48).

- The recuperation of the value of the dignity of sexual pleasure within marriage — this is a return to the Bible. After all, sexual pleasure was created by God, and He saw all of His creation ‘good’.

In the post-Vatican II official documents (except in the 1983 Code of Canon Law), one notices all these main conciliar teachings being continued and further developed. Thus, in his well-known but controversial encyclical *Humanae Vitae*<sup>6</sup> (1968), Paul VI gives one of the finest descriptions of what marriage is:

Marriage, then, is far from being the effect of chance or the result of the blind evolution of natural forces. It is in reality the wise and provident institution of God the Creator, whose purpose was to effect in man His loving design. As a consequence, husband and wife, through that mutual gift of themselves, which is specific and exclusive to them alone, develop that union of persons in which they perfect one another, cooperating with God in the generation and rearing of new lives (HV, 8).

The document *Persona Humana* (1975) issued by the Congregation for the Doctrine of the Faith also marked a turning point in the

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<sup>4</sup>It is difficult to get an exact English word that corresponds to this Latin word in the original text of GS.

<sup>5</sup>Vimal Tirimanna, “Vatican II’s Teaching on Marriage: An Antidote to Contemporary Problems,” *Vidyajyoti Journal of Theological Reflection*, 77, 7 (July 2013) 537-552.

<sup>6</sup>Hereafter referred to as HV.

development of the Church's doctrine on marriage. Basing itself firmly on GS's Personalistic vision of human sexuality and the ever growing understandings of the human person and human sexuality by the human sciences, such as anthropology, psychology and sociology, this document (PS) provided for the first time an official doctrinal framework that can truly be called inter-disciplinary. The later major official documents, such as *Familiaris Consortio*<sup>7</sup> (1981) and the *Catechism of the Catholic Church*<sup>8</sup> (1992) would continue generally to teach along the lines of GS, HV and PS, thus, following their dominant Biblical, Personalistic and inter-disciplinary approaches. For example, all of them continue to call marriage a 'covenant' though the Code of Canon Law (1983) makes a faint but superficial attempt to follow GS by calling marriage a 'covenant' only in its opening Canon on marriage (no. 1055), but immediately succumbs to the pre-Vatican II concept of 'contract' in the rest of the Code "no less than forty times."<sup>9</sup> According to Orsy, this is mainly because though the dignity of the human person as promoted by Vatican II has made its strong inroads into the canonical tradition the trends upholding the primacy of the Church as institution are still visible in the 1983 Code.<sup>10</sup>

In what follows, we will highlight some of the salient specific developments in the official teachings on marriage during the past 50 years, developments that have ensued from the radical changes of the Vatican II's vision on human sexuality and marriage in general, under the following sub-titles:

## 1. Approval of Natural Family Planning

We begin with the gradual process in which the Church's full official approval of natural family planning bore fruit in HV. In the immediate aftermath of the discovery of the fertile and infertile periods of a woman's reproductive cycle in the 1920's,<sup>11</sup> Pope Pius XI cautiously and implicitly gave his nod to what is known today as "natural family planning," first in his encyclical *Casti Connubii* in 1930 when he wrote:

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<sup>7</sup>Hereafter referred to as FC.

<sup>8</sup>Hereafter referred to as CCC.

<sup>9</sup>Ladislav Orsy, *Marriage in Canon Law: Texts and Comments, Reflections and Questions*, Wilmington: Michael Glazier, 1986, 47.

<sup>10</sup>Orsy, *Marriage in Canon Law*, 37.

<sup>11</sup>Karl H. Peschke, *Christian Ethics: Moral Theology in the Light of Vatican II*, Vol. II (Revised Edition), Bangalore: Theological Publications in India, 1992, 502; John T. Noonan, Jr., *Contraception: A History of its Treatment by the Catholic Theologians and Canonists* (Enlarged Edition), Cambridge: Harvard University Press, 1986, 442-443.

Nor are those spouses considered as acting against nature who in the married state use their right in the proper and natural manner, even though on account of natural causes, either of time or of certain defects, new life cannot be brought forth. For in matrimony as well as in the use of the matrimonial rights there are also secondary ends, such as mutual aid, the cultivating of mutual love, and the quieting of concupiscence which husband and wife are not forbidden to consider so long as they are subordinated to the primary end and so long as the intrinsic nature of the act is preserved.<sup>12</sup>

When, Pope Pius XII explicitly approved it in his Address to the Italian midwives in 1951,<sup>13</sup> the official Church teaching surely went through development if not a radical change from the teachings of St Augustine that dominated the Church till Vatican II. For Augustine, every act of sexual intercourse had to have the explicit intention to procreate, and with both Pius XI and Pius XII, this teaching is gradually turned upside down: a couple could use the rhythm method, which means they need not have any more explicit or even an implicit intention as such to procreate<sup>14</sup> when they copulate. HV is the first post-Vatican II document to not only officially and openly approve the use of the rhythm method, but even to recommend it for Responsible Parenthood, which is a clear development in the official teaching (HV, 11, 16). Accordingly, “married people may take advantage of the natural cycles immanent in the reproductive system and engage in marital intercourse only during those times that are infertile,” says Pope Paul VI. This teaching is consistently repeated in later official teachings (FC, 32, 34; CCC, 2368, 2370).

## 2. Responsible Parenthood

GS had already made reference to the “responsible transmitting of life” with regard to married spouses (51, 87). In his HV, Paul VI puts more flesh on to this term and talks of “responsible parenthood”:

With regard to physical, economic, psychological and social conditions, responsible parenthood is exercised by those who prudently and generously decide to have more children, and by those who, for serious reasons and

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<sup>12</sup>Pope Pius XI, *Casti Connubii* (1930), as cited in Joseph A. Selling, “Magisterial Teaching on Marriage 1880-1968: Historical Constancy or Radical Change?” in Réal Tremblay and Dennis J. Billy, ed., *Historia: Memoria Futuri, Mélanges Louis Vereecke*, Roma: Edizione Academiae Alphonsonianae, 1991, 375.

<sup>13</sup>Selling, “Magisterial Teaching on Marriage,” 380-386; Noonan, *Contraception*, 445-447.

<sup>14</sup>Although in his later writings Augustine is supposed to have changed his earlier teaching that every act of sexual intercourse should have an explicit intention to procreate, in the later Catholic moral tradition (that came after him), what was predominantly attributed to him was his earlier teaching.

with due respect to moral precepts, decide not to have additional children for either a certain or an indefinite period of time (HV, 10).

Already, the previous year (1967), he had used this concept with regard to the increasing world population in his celebrated encyclical *Populorum Progressio* when he wrote:

Finally, it is for parents to take a thorough look at the matter and decide upon the number of their children. This is an obligation they take upon themselves, before their children already born, and before the community to which they belong — following the dictates of their own consciences informed by God's law authentically interpreted, and bolstered by their trust in Him.<sup>15</sup>

Responsible parenthood, then, means not merely the reduction of the number of children a couple may have but also the spacing of the births of their children, but always following the legitimate means advocated by the Church, namely, the natural family planning methods, based on the fertile period of a woman's cycle, according to one's properly formed conscience. Thirteen years later, John Paul II refers to the same concept in passing, when he speaks of the use of natural rhythms whereby a couple shares responsibility for their children (FC, 32). The CCC (1992), too, refers to the concept of responsible parenthood in no. 2367 and 2368.

### 3. 'Ends' Become 'Meanings' of Marriage

While cautioning that this "responsible parenthood" has to be in constant dialogue with the objective moral order (no. 10), HV explicitly states that only natural family planning methods are to be used in the exercising of this 'responsibility' by the spouses (no. 16). All artificial methods of birth control are condemned (no. 14), and this condemnation is based on an original argument that Paul VI introduces to magisterial teachings: first of all, he calls the traditional 'ends' of marriage by a new term, "meanings" ('significance'). Accordingly, there are two "meanings" of marriage: 'unitive' and 'procreative'. Then (using what GS already said about the inherent link between mutual love of the spouses and procreation), he goes on to argue that these two meanings are inseparably linked by God, and that that link cannot be broken by human beings (HV, 12). All the subsequent magisterial documents have consistently used this solid argument of Paul VI to show the immorality of the use of artificial contraceptives.<sup>16</sup>

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<sup>15</sup>Pope Paul VI, *Populorum Progressio* (1967), 37.

<sup>16</sup> Cfr., FC, 32; CCC, 2366. This original argument of Paul VI is also used by the official Church to forbid the use of most of the modern reproductive technologies.

For our purposes in this article, one needs to notice not only this new argument against artificial contraceptives, but also the unique evolution of the term 'meanings'. First, St Augustine had spoken about the three 'goods' of marriage<sup>17</sup>, and then, St Thomas spoke about the hierarchical ordering of the two 'ends' of marriage: procreation as the 'primary' end and mutual love as the 'secondary' end. Vatican II continued to speak of 'ends' of marriage, but without any hierarchical ordering of them. And here, HV marks another stage of evolution of these terms in calling them 'meanings' of marriage. In FC, Pope John Paul II, too, continues to use the term 'meanings' to refer to the traditional 'ends', thus confirming a clear development in the Church's official teaching (FC, 32; CCC, 2366). The Code of Canon Law (1983), which came into effect two years later, is in full harmony with the post-Vatican II omission of the earlier predominant hierarchy of ends; in fact, one notices that "the good of the spouses" precedes the "the procreation and education of children" in its present formulation (Canon 1055).

#### **4. The Intrinsic Link between Love (Mutual Love) and Life (Procreation)**

In HV, Paul VI's comments on married love are in total harmony with what GS had taught three years before, when he says: "This love is above all fully human, a compound of sense and spirit" (no. 9). Calling this love a "very special form of personal friendship," he says that this love is also "fecund" (no. 9), thus, highlighting the intrinsic link between the married love and the life it generates. This highlighting of the intrinsic link between the two ends (now become 'meanings' in HV) and attributing such a link as going back to God himself, is itself a development in the doctrine, in the sense, in the pre-Vatican II era, the two ends were not clearly linked. Rather, they were perceived as two hierarchically ordered, isolated ends, each of which apparently could exist independently from the other, either above or below the other (in a hierarchy).

In FC, John Paul II too refers to this intrinsic link when he writes: "the couple, while giving themselves to one another, give not just themselves but also the reality of children, who are a living reflection of their love, a permanent sign of conjugal unity and a living and inseparable synthesis of their being a father and a mother" (no. 14). He goes on to elaborate this point further:

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<sup>17</sup>For Augustine, the three goods were: offspring, spousal fidelity and the unbreakable relationship between the spouses.

Fecundity is the fruit and the sign of conjugal love, the living testimony of the full reciprocal self-giving of the spouses. "While not making the other purposes of matrimony of less account, the true practice of conjugal love, and the whole meaning of the family life which results from it, have this aim: that the couple be ready with stout hearts to cooperate with the love of the Creator and the Saviour, who through them will enlarge and enrich His own family day by day" (FC, 28).

Re-echoing the radical teaching of GS, 50 that "marriage is not instituted merely for procreation," and developing it further, FC says: "However, the fruitfulness of conjugal love is not restricted solely to the procreation of children, even understood in its specifically human dimension" (no. 28). Given the long history of some 1,600 years since St Augustine, during which the Church taught consistently that the main aim of marriage is to procreate (at times even implying that it is the sole aim of marriage),<sup>18</sup> this is surely another clear development of doctrine.

## 5. Marital Love as a Reflection of God's Love itself

A recent article on the just-concluded Extraordinary Synod, by Antonio Spadaro begins with the sentence: "Love between a man and a woman is the image of the love of God."<sup>19</sup> Such a statement would have been shocking for any moral theology professor or student just before the Vatican II. Thanks to the fundamental suspicion of human sexuality that the Catholic tradition inherited from the Patristic times, human sexual love, even in the years prior to the Council, did not feature positively in Catholic moral theology. The love between a man and a woman (*eros*) was looked at with suspicion as something that deviates humans from God.<sup>20</sup> And this in spite of the rich biblical view of it, especially in the Song of Songs. What was indispensable in the pre-Vatican II era was that the marital contract was validly entered into, and within such an exclusively juridical framework within which marriage was perceived, "one could be forgiven for

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<sup>18</sup>As already mentioned above, although in his later writings Augustine is supposed to have changed his earlier teaching that every act of sexual intercourse should have an explicit intention to procreate, in the later Catholic moral tradition (that came after him), what was predominantly attributed to him was his earlier teaching. For Thomas Aquinas and the Catholic teaching thereafter till Vatican II, the primary end of marriage was procreation.

<sup>19</sup>Antonio Spadaro, "Una Chiesa in Cammino Sinodale: Le Sfide Pastorali sulla Famiglia," *La Civiltà Cattolica*, 165 (1 Novembre, 2014) 213.

<sup>20</sup>For a detailed study of how sexual pleasure was treated in the Catholic Tradition, see Shaji George Kochuthara, *The Concept of Sexual Pleasure in the Catholic Moral Tradition*, Roma: Editrice Pontificia Università Gregoriana, 2007.



assuming that a man and a woman who hated one another could be married, as long as each gave to the other the right over her or his body"!<sup>21</sup> However, with Vatican II things changed radically. Thus, no. 48 of GS begins by defining marriage as an "intimate communion of life and conjugal love" (*intima communitas vitae et amoris coniugalis*). In no. 48-51, we notice how this marital communion is described in intimate, personal terms. The essence of this communion is perceived as the conjugal act, and it is described in no. 48 as "the human act by which parties give and receive each other." In GS, 49, we read:

Our Lord himself graciously made whole, perfected, elevated this love with a special endowment of grace and charity. Such a love associating the human with the divine, leads married people to give themselves to each other freely, with tenderness of affection and action; it pervades their lives and grows by its own generous exercise. It is something far beyond the erotic attraction which, selfishly indulged, quickly and miserably vanishes.

Ever since GS restored marital love to its due place within the Catholic tradition, all the magisterial documents have been very positive about married love. This conciliar restoration of married love to its due place and its linkage with the divine reached its zenith in the official teachings with Pope Benedict XVI who wrote in *Deus Caritas Est* (2005): "True, *eros* tends to rise 'in ecstasy' towards the Divine, to lead us beyond ourselves; yet for this very reason it calls for a path of ascent, renunciation, purification and healing."<sup>22</sup> The Pope goes on to insist that oblation or self-effacing love (*agape*) for one another as taught by Jesus and the love between a man and a woman (*eros*) "can never be completely separated."<sup>23</sup> Thus, he clearly negates the antithesis between *agape* and *eros* that was popular within Church circles a few years before the Council. Rather, a love so total and pervasive as in the mutual giving of each other in the marital act transcends the horizon of human love (*eros*) and readily participates in divine love (*agape*).

## 6. Different Types of Heterosexual Unions That Fall Short of the Ideal Christian Marriage

Between the Second Vatican Council (which ended in 1965) and the Synod on Family in 1980, there had been a lot of radical changes with regard to the understanding and the lived reality of human sexuality and marriage in the contemporary secular world. In a short span of

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<sup>21</sup>Michael G. Lawler, *Marriage and Sacrament: A Theology of Christian Marriage*, Collegeville: The Liturgical Press, 1993, 19.

<sup>22</sup>Benedict XVI, *Deus Caritas Est* (2005), 5.

<sup>23</sup>Benedict XVI, *Deus Caritas Est* (2005), 7.

just 15 years, a wide variety of new forms of heterosexual relationships such as trial marriages, 'de-facto marriages' (popularly known as 'living together'), civil marriages and divorced and re-married unions, had increasingly come into being.<sup>24</sup>

The Church's moral teachings are meant for living human beings who keep on changing not only in their understanding of their very human existence but also in their very human behaviour. Thus, with regard to marriage, today, there are not only the above-mentioned new forms of heterosexual unions but there are also open homosexual unions who even demand that those relationships, too, be recognized as 'marriages'! The Church's teaching has been (even reluctantly) addressing all such groups at least gradually, though the Church continues to faithfully uphold a monogamous, heterosexual, sacramental marriage as the ideal form of marriage. That is why an official Church document like FC tries to address most of these groups from a pastoral point of view, for the first time in the Church's history (no 79-84).<sup>25</sup> Interestingly, one could gather what sort of an evolution had taken place in the very concept of marriage itself in lived human reality, by the very fact that the teachings of Vatican II do not have any of these groups even mentioned, some 50 years ago.<sup>26</sup>

## **7. The Divorced and the Re-married Catholics**

For centuries, the Church has been consistently teaching that the divorced and remarried Catholics were "living in sin," to be precise, living in the sin of adultery. The magisterial documents during the past 50 years, too, continue to faithfully and eloquently express this cherished Catholic doctrine of the indissolubility of marriage, as something going back to Jesus himself. However, with regard to the pastoral treatment of those divorced and re-married Catholics, there are some radical developments in the official teachings. In order to get an idea of how the divorced and remarried were perceived within the Church in the pre-Vatican II era, let us simply state how the 1917 Code of Canon Law perceived them:

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<sup>24</sup>Of course, one may rightly attribute these drastic changes to the so-called 'sexual revolution' of the 1960's, among other socio-historical factors and causes.

<sup>25</sup>The recently concluded Extraordinary Synod devoted a lot of attention not only to such diverse forms of heterosexual unions but also to homosexual unions, thus, indicating yet another radical development in the Tradition.

<sup>26</sup>Even the reality of divorce and re-marriage gets scarce mentioning in GS, simply because it was not a common phenomenon then, as it is now.

Bigamists, that is, those who, notwithstanding a conjugal bond, attempt to enter another marriage, even a civil one as they say, are by that fact infamous; and if, spurning the admonition of the Ordinary, they stay in the illicit relationship, they are excommunicated according to the gravity of the deed or struck with personal interdict.<sup>27</sup>

However, the 1983 Code of Canon Law, no longer calls pejoratively the divorced and remarried as 'bigamists'; neither does it contain threats of punishment or an excommunication according to the gravity of the deed. It simply states: "The impediment of public honesty arises from an invalid marriage after the common life has been initiated, or from notorious or public concubinage."<sup>28</sup> Here, we notice a clear development in canonical practice of the Church with regard to the divorced and remarried.

Moreover, in 1977, the International Theological Commission while upholding the traditional Catholic arguments against the divorced and remarried receiving the Eucharist, nevertheless, toed a soft pastoral line evoking some of the duties that ensue from the fact of their baptism, when it said:

They are not dispensed from the numerous obligations stemming from baptism, especially the duty of providing for the Christian education of their children. The paths of Christian prayer, both public and private, penance, and certain apostolic activities remain open to them.<sup>29</sup>

This fresh opening of channels that link the divorced and remarried to the ecclesial community were further enhanced just four years later by Pope John Paul II when he wrote:

The Church, which was set up to lead to salvation all people and especially the baptized, cannot abandon to their own devices those who have been previously bound by sacramental marriage and who have attempted a second marriage. The Church will therefore make untiring efforts to put at their disposal her means of salvation (FC, 84).

Then, under the same heading "Divorced Persons who have Remarried," the Pope enumerates how such persons can be made to consider that they are not separated from the Church, but rather that

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<sup>27</sup>Canon 2356 of the 1917 Code of Canon Law as re-produced in Edward N. Peters (Curator), *The 1917 Pio-Benedictine Code of Canon Law: In English Translation with Extensive Scholarly Apparatus*, San Francisco: Ignatius Press, 2001, 748. All the following references to the 1917 Code are taken from this version of Peters.

<sup>28</sup>Canon 1093 in the Code of Canon Law, 1983. Cfr., Cardinal Walter Kasper, *The Gospel of the Family*, New York: Paulist Press, 2014, 27.

<sup>29</sup>The International Theological Commission, "Propositions on the Doctrine of Christian Marriage" (1977), 5.4.

they “share in her life”: encouraging them to listen to the word of God, to attend the Sacrifice of Mass, to persevere in prayer, to contribute to works of charity and to community efforts in favour of justice, to bring up their children in the Christian faith, to cultivate the spirit and practice of penance and thus implore, day by day God’s grace (FC, 84). Finally, the Pope calls upon the Church to pray for them, to encourage them and show herself a merciful mother, and thus, sustain them in faith and hope (FC, 84).

Referring to the above-mentioned Statement of the International Theological Commission in 1977, and to what Pope John Paul II teaches in FC, Orsy says that “from a theological point of view both see the divorced and remarried as constituting a special group in the church, with their own rather well defined status,” in the sense that they are not separated from the Church as they were originally perceived, say for example, by the 1917 Code,<sup>30</sup> but they are now considered as in communion with the Church. Orsy goes on to comment:

Clearly, the two documents testify that the church is moving away from a severe and rigid stance, judging the divorced and remarried as public sinners, and is moving toward appreciating them, provided they are of contrite heart, as recipients of God’s grace. The very content of the documents indicates that we are in the midst of a development that has not reached its final goal yet.<sup>31</sup>

Surprisingly, however, CCC which was released in 1992, says that such people are living in “a situation of public and permanent adultery.”<sup>32</sup> No other magisterial document, to our knowledge, has used such strong language against the divorced and remarried Catholics in the post-Vatican II period. That the CCC takes a sterner stand with regard to the re-married Catholics than the FC can easily be perceived if one were to compare FC, 84 with CCC, 1650. Not only the Church’s “motherly concern” but also the many areas in which such Catholics could take part in Church life as mentioned by Pope John Paul II are missing in the CCC. However, some fifteen years later, Pope Benedict XVI repeats what Pope John Paul II had been saying, namely, that the re-married Catholics belong to the Church, and that they are invited to participate in Church life except for the reception of the sacraments.<sup>33</sup> In referring to the re-married Catholics,

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<sup>30</sup>Cfr., Canon 855 of the 1917 Code of Canon Law.

<sup>31</sup>Orsy, *Marriage in Canon Law*, 290.

<sup>32</sup>CCC, 2384.

<sup>33</sup>Benedict XVI, *Sacramentum Caritatis* (2007), 29. The surprisingly stern stand of the CCC is not seen anywhere in other recent magisterial documents on this issue.

the Final Report of the recent Extraordinary Synod on Family used even more humane and cordial terms when it said “the church has the responsibility of helping them understand the divine pedagogy of grace in their lives and offering them assistance so they can reach the fullness of the God’s plan for them.”<sup>34</sup> Moreover, it called for “encouraging them to participate in the life of the community” (no. 51). While it never referred to the traditional Catholic objection of “scandal” that would be caused if re-married people were to receive communion, instead appealed to see something positive in such a pastoral approach: “The Christian community’s care of such persons is not to be considered a weakening of its faith and testimony to the indissolubility of marriage, but, precisely in this way, the community is seen to express its charity” (no. 51). This, surely is a stepping-stone to a new development.

## 9. Mixed Marriages

The term ‘mixed marriage’ in ordinary parlance as well as in a broad sense in Canon Law, refers to marriages between Catholics and non-baptized persons (disparity of cult marriages) and those between Catholics and baptized non-Catholics (mixed religion marriages).<sup>35</sup> Commenting on the latter type, Siegle re-evokes a vivid picture of the earlier Catholic attitudes towards such marriages:

Over the years many different policies have developed with respect to mixed marriages. Norms were given for the performance of such marriages in the rectory or sacristy of the church; later developments found such marriages performed in the church but outside the altar rail, and in some dioceses without flowers on the altar, without music and without lighted candles. As time went on permissions were granted for the wedding to take place inside the altar rail, with music (but not singing) and with flowers on the altar. New norms now permit the celebration of mass and the reception of holy communion on the part of the Catholic.<sup>36</sup>

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<sup>34</sup>The Final Report of the Extraordinary Synod of Bishops on the Family (October 2014), no. 25, as re-produced in *Origins*, 44, 24 (13 November 2014) 399. When this long Synodal process of reflection and decision-making on Family ends with the would-be post-Synodal Apostolic Exhortation at the end of the Ordinary Synod in October 2015, one can rightly be optimistic of further developments with regard to the official teachings on this issue.

<sup>35</sup> Thomas P. Doyle, “Title: VII, Marriage” in James A. Coriden et al., ed., *The Code of Canon Law: A Text and Commentary*, New York: Paulist Press, 1985, 800. Some authors use this term exclusively to mean the marriages between Catholics and baptized non-Catholics. See for example, Orsy, *Marriage in Canon Law*, 180. For our purposes in this article, we use it to cover both ‘disparity of cult’ and ‘mixed religion’ marriages.

<sup>36</sup>Bernard A. Siegle, *Marriage: According to the New Code of Canon Law*, New York: Alba House, 1986, 149.

An analysis of the canonical attitudes before and after the Vatican II indicates a clear development in the tradition with regard to such marriages. For example, the 1917 Code refers to what was known as “mixed religion marriages” as follows:

Most severely does the Church prohibit everywhere that marriage be entered into by two baptized persons, one of whom is Catholic, and the other belonging to a heretical or schismatic sect: indeed, if there is a danger of perversion to the Catholic spouse and children, that marriage is forbidden even by divine law.<sup>37</sup>

Even a very superficial comparison of the above with the reference to the same type of marriages in the 1983 Code shows a drastic softening of the language and of the tone used:

A marriage between two baptized persons, one of whom was baptized in the Catholic church or was received into it after baptism and has not defected from it by a formal act, the other of whom belongs to a church or an ecclesial community not having full communion with the Catholic church, without the express permission of the competent authority, is forbidden.<sup>38</sup>

Moreover, in the 1917 Code, it was the non-Catholic party (whether baptized or non-baptized) who had to give promises (and that too, in writing) “to remove the danger of perversion from the Catholic spouse,” and to baptize all children and bring them up in the Catholic faith, in order to get a permission (in the case of mixed communion marriages) or a dispensation (in the case of a disparity of cult marriages).<sup>39</sup> But the 1983 Code has changed this canonical stance radically, and so, now it is the Catholic party himself/herself that has to give a promise that he/she will do everything possible not to endanger his/her own Catholic faith, and to do all within his/her power to baptize the would-be-children and to bring them up in the Catholic faith.<sup>40</sup> Doyle comments on the change that occurred in the aftermath of Vatican II with regard to the conditions for granting permission or dispensation for such marriages:

The non-Catholic party is no longer required to make any promises. Rather, the Catholic party is to declare that he or she is prepared to remove all danger of departing from the faith and promise to do all in his or her power to see that any children are baptized and raised as Catholics.

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<sup>37</sup>Canon 1060 of the 1917 Code.

<sup>38</sup>Canon 1124 of the 1983 Code.

<sup>39</sup>Canon 1061 of the 1917 Code.

<sup>40</sup>Canon 1125 of the 1983 Code. Moreover, the non-Catholic party is to be informed clearly of such obligations undertaken by the Catholic spouse.

The responsibility for fidelity to the Church rests with the Catholic party and not the non-Catholic spouse, although the non-Catholic is obliged to respect the Catholic's situation.<sup>41</sup>

Orsy believes that the document on Religious Freedom (*Dignitatis humanae*) of Vatican II which "stressed the right of all human persons to follow the light of their conscience and their right to profess publicly their religious convictions" had a role in this change.<sup>42</sup>

As we know, the disparity of cult marriages which are now often called by the term 'inter-faith marriages' are on a phenomenal increase in recent decades, not only in the so-called non-Christian parts of the world, but elsewhere too. FC addresses them just after talking about Mixed Communion marriages in no. 78 when it says:

Today in many parts of the world marriages between Catholics and non-baptized persons are growing in numbers. In many such marriages the non-baptized partner professes another religion, and his beliefs are to be treated with respect, in accordance with the principles set out in the Second Vatican Council's Declaration *Nostra aetate* on relations with non-Christian religions. But in many other such marriages, particularly in secularized societies, the non-baptized person professes no religion at all, in these marriages there is a need for Episcopal Conferences and for individual Bishops to ensure that there are proper pastoral safeguards for the faith of the Catholic partner and for the free exercise of his faith, above all in regard to his duty to do all in his power to ensure the Catholic baptism and education of the children of the marriage. Likewise the Catholic must be assisted in every possible way to offer within his family a genuine witness to the Catholic faith and to Catholic life.

Surprisingly, following a different theological trend, the CCC expresses the fervent wish for the eventual conversion of the non-Catholic party to the Catholic religion (CCC, 1637).

## Conclusion

As we have seen above, the understanding of marriage and its ramifications in practical living has surely undergone radical developments, during the past 50 years, within the official Church teachings. Only a living organism can grow (develop), and growth always implies change. That is to say that the Catholic moral tradition is indeed a living organism that keeps on developing.<sup>43</sup> Commenting

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<sup>41</sup>Doyle, "Title: VII, Marriage," 802.

<sup>42</sup>Orsy, *Marriage in Canon Law*, 36. One might also add the impact of the value of other religions as taught in *Nostra Aetate* (1965), at least with regard to the changes in the Church's understanding of disparity of cult marriages.

<sup>43</sup>Cfr. *Dei Verbum* (1965), 8; Pope John Paul II, *Veritatis Splendor* (1993), 4, 27, 28.

on such developments in the official Catholic moral teachings, not only with regard to marriage but also with regard to other moral issues, the renowned historian Noonan perceives the Catholic Church to be a vigorous, living organism answering new questions with new answers, and enlarging the capacity of believers to learn through experience and empathy what love demands. He contends that the impetus to change comes from a variety of sources, including prayer, meditation on Scripture, new theological insights and analyses, the evolution of human institutions, and the examples and instruction given by persons of good will.<sup>44</sup>

Such changes then, are nothing but an *aggiornamento*, a renewal, a responding to the 'signs of the times' in history. Neither are they deviations from or dilutions of the tradition; rather, often if not always, they mark a going back to the original sources of the tradition, especially to the Biblical teaching and the early Church life (i.e., *ressourcement*),<sup>45</sup> as the leading French theologians like Henri de Lubac, Jean Daniélou, Yves Congar, Marie-Dominique Chenu, etc. were aiming at in their own studies prior to the Vatican II. As long as the Holy Spirit promised by Jesus is present in the Church, He will be progressively making the Church understand God's revelation better.<sup>46</sup> In other words, the Church's understanding of her own teachings will keep on growing, thanks to the same Spirit.

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<sup>44</sup>The back-cover summary in John T. Noonan, Jr., *A Church That Can and Cannot Change: The Development of Catholic Moral Teaching*, Notre Dame (Indiana): University of Notre Dame, 2005.

<sup>45</sup>For a comprehensive understanding on 'ressourcement', see Massimo Faggioli's fine essay at [http://www.stanfordvatican2.net/readings/april-8-francis/faggioli\\_chapt2.pdf](http://www.stanfordvatican2.net/readings/april-8-francis/faggioli_chapt2.pdf). (accessed on 2nd September 2014).

<sup>46</sup>Cfr. Jn 14:25-26, 16:12-13; *Dei Verbum* (1965), 8; Pope John Paul II, *Veritatis Splendor* (1993), 27-28.