

Procreation and Sacrament as Valued Goods of Marriage:  
Re-Evaluating the Foundational Principles of the Catholic Marriage Tradition in the Secular  
Contemporary Western World

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## **Abstract**

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The foundation of the Catholic marriage tradition is deeply Christological and ecclesiastical. The tradition today continues to stress that spouses must be joined in Holy Matrimony, wherein newlyweds are married in a religious ceremony held in a church and exchange the sacrament of marriage. The appeal of the Catholic marriage tradition, however, has become strained among both Christians and non-Christians in the contemporary Western world. Marriage is now a private social or legal contract between consensual partners, and the sacramental model of marriage that chiefly encouraged indissolubility, heterosexual unions, and childrearing is largely ignored in current civil marriage laws. Marriage practice has also developed many secular alternatives in favor of individualism. While some might rightfully argue that there is an ongoing need for reform within Catholic churches regarding its enduring marriage customs, there is, on the other hand, a legitimate concern for the protection of the values embedded in Catholic marriage theology and law. The challenge becomes how to appropriate such biblical and ecclesiastical traditions into the more fluid contemporary Western age.

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## Introduction

### The Role of Catholic Marriage Theology in the Secular Western World

There is growing concern among both scholars and citizens of Western society about the current health and welfare of the institution of marriage.<sup>1</sup> Less couples today are seeking marriage and raising children; and many of those who do seek a marriage eventually terminate the contract in a divorce, whether children are involved or not.<sup>2</sup> The recent disordering of marriages and family life are often attributed to a lack of moral theological values in secular culture.<sup>3</sup> Catholic marriage theology and tradition stresses that spouses must be joined together in Holy Matrimony; as such, couples are expected to be married in a church by a priest, where they naturally exchange the sacrament of marriage with each other and promise to raise a family in a lasting marital union.<sup>4</sup>

The Catholic marital process has become unappealing to non-Christians and some Christians in our secular age, and the authority that the Catholic Church once had on marriage formation and law is largely ignored in the West.<sup>5</sup> Marriage is now commonly understood as a contract between two parties, granted by the state or a religious institute.<sup>6</sup> As Western society encounters and adapts to new cultural and moral norms, some individuals and groups, including progressives and liberals, expect our social structures to follow suit; however, Catholic churches and many of its followers are unmoving when it comes to the fundamentals of marriage and have remained reluctant towards many of the social and cultural changes brought about by modernization.<sup>7</sup> While some might rightfully argue that there is a need for reform within Catholic churches regarding its enduring marriage customs, there is, on the other hand, a legitimate concern for the protection of the more earnest values embedded in Catholic marriage theology and law.<sup>8</sup> The challenge, therefore, is how to appropriate such biblical and ecclesiastical traditions into the more fluid contemporary Western world.<sup>9</sup>

The history of marriage and the family is ultimately one of ongoing reformation, ‘reflecting and effecting changes in the church and wider society’ even now.<sup>10</sup> This thesis will consider the ever-evolving institution of marriage in the Western world, from its development of

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<sup>1</sup> Don S. Browning, *Marriage and Modernization: How Globalization Threatens Marriage and What to Do About It* (Grand Rapids: Eerdmans, 2003): ix, 1; and John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville: Westminster John Knox, 2012): ix.

<sup>2</sup> Mark J. Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” *Christian Bioethics* 21, no 2 (Summer 2015): 152; and Charles J. Reid, Jr., “The Augustinian Goods of Marriage: The Disappearing Cornerstone of the American Law of Marriage,” *Brigham Young University Journal of Public Law* 18, no. 2 (Summer 2003): 472.

<sup>3</sup> Stephen C. Barton, “Kinship, Marriage and Family: Learning from Tradition,” *Colloquium* 50, no. 2 (Winter 2018): 23; and Emerson Hynes, “A Family Reflection,” *Orate Fratres* 23, no 3 (Jan 1949): 109.

<sup>4</sup> Philip L. Reynolds, *How Marriage Became One of the Sacraments: The Sacramental Theology of Marriage from its Medieval Origins to the Council of Trent* (Cambridge: Cambridge University Press, 2018): xxv, 29, 33, 40, 101.

<sup>5</sup> Charles Taylor, *A Secular Age* (Cambridge: Belknap Press, 2018): 493.

<sup>6</sup> Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 151; and Witte, Jr., *From Sacrament to Contract*, 195.

<sup>7</sup> Roland H. Bainton, *What Christianity Says About Sex, Love and Marriage*, (New York: Association Press, 1957): 9.

<sup>8</sup> Browning, *Marriage and Modernization*, ix; and Hynes, “A Family Reflection,” 109.

<sup>9</sup> Browning, *Marriage and Modernization*, x, 88.

<sup>10</sup> Barton, *Kinship, Marriage, and Family*, 19.

a particularly Christian identity in the Middle Ages to its more recent secular contemporary form. This will involve exploring the interactions between Christian marriage theology and law over the past two millennia, including what Christians conceive to be the nature and purpose of marital life as informed by Scripture. The goal of this exploration is to uncover the theological beliefs that would become the foundation of traditional marriage formation and law during the first millennium and, further, how these beliefs would come to inform the marital laws of Western Europe and North America in the second millennium.

In reflecting on the history of Christian marriage formation and law, this thesis will attempt to explore two open-ended questions concerned with the relevance of Catholic marriage theology today, one posed by theologian Stephen C. Barton in his article “Kinship, Marriage and Family: Learning from Tradition” and the other by author Don. S Browning in his book *Marriage and Modernization*.<sup>11</sup> First, as contemporary Western society continues to encourage religious pluralism and embrace secularism, Browning asks, “How should Christianity respond to the forces of modernization and globalization as they affect marriage and family issues?”<sup>12</sup> Second, in considering how the institution of marriage has changed over the past several centuries, Barton asks “...what pattern (or patterns) might [marriage and family dynamics] take, in Christ, now?”<sup>13</sup> In other words, how should Christianity adapt to secular norms and, further, can secular culture learn to embody traditional Catholic values?<sup>14</sup> This thesis, therefore, intends to explore whether a secularized form of marriage retains or might benefit from some of the values of the Catholic marriage theology, or whether some of the principles of the Catholic marriage tradition are ultimately antiquated and incompatible with contemporary Western social, cultural, and moral norms.

The first chapter will chronicle the development of a distinctly Christian form of marriage in the Latin West at the end of classical antiquity and throughout the Middle Ages.<sup>15</sup> The principles of marriage and the family established by the Latin Fathers would become the foundation of the normative Western marriage tradition for the Catholic faith today; in particular, the goods of marriage proposed by Saint Augustine of Hippo (354-430), including procreation, fidelity, and permanence.<sup>16</sup> To better address the value of Catholic marriage theology for Western society now, this thesis will therefore begin by exploring why the sacramental marriage model had gained legal providence in the Western world at all.<sup>17</sup> The second chapter will detail the reformation of the Christianized Western marriage tradition throughout modernity and the current contemporary age.<sup>18</sup> The Catholic marriage tradition today is no longer the normative Western marriage model; many of the marital reform movements against the Catholic sacramental marriage model during the modern age would have reverberations into the start of the contemporary age, eventually resulting in marital formation, family structures, and sexual ethics now taking divergent and, quite often, non-religious or secular forms.<sup>19</sup> To better understand the advent of legal secularism and the considerable changes made to traditional marriage laws in

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<sup>11</sup> Barton, “Kinship, Marriage and Family,” 6, and Browning, *Marriage and Modernization*, xiii.

<sup>12</sup> Browning, *Marriage and Modernization*, xiii.

<sup>13</sup> Barton, “Kinship, Marriage and Family,” 6

<sup>14</sup> Barton, “Kinship, Marriage and Family,” 6, and Browning, *Marriage and Modernization*, xiii.

<sup>15</sup> Philip L. Reynolds, *Marriage in the Western Church: The Christianization of Marriage During the Patristic and Early Medieval Periods* (Boston: Brill, 2001): xv-xiv.

<sup>16</sup> Reynolds, *Marriage in the Western Church*, 63.

<sup>17</sup> Witte, Jr., *From Sacrament to Contract*, 42, 48.

<sup>18</sup> Barton, “Kinship, Marriage and Family,” 14.

<sup>19</sup> Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 151.



recent years, this chapter will reflect on the reformation of the Catholic marriage tradition in Western society.<sup>20</sup> The third and final chapter will consider the effects of secularism on the wellness of marriages and families and, further, whether traditional Christian values could aid in reinvigorating the desire to marry and have children in Western society.<sup>21</sup> The recent changes to marital norms and family dynamics offer varying amounts of legitimate welfare in the effort to support our pluralistic Western societies.<sup>22</sup> Furthermore, sexual ethics and norms are of growing concern to citizens as a result of these emerging dynamisms, which, for many, reflects a fundamental disordering to the institution of marriage today.<sup>23</sup> This paper will conclude by assessing the main points of contention between the moral perspectives encapsulated in the marriage and family values of both secular culture and religious doctrine in order to establish a marriage model which might best promote human flourishing in our contemporary Western world.<sup>24</sup>

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<sup>20</sup> Jenna Reinbold, "Sacred Institutions and Secular Law: The Faltering Voice of Religion in the Courtroom Debate over Same-Sex Marriage," *Journal of Church and State* 56, no 2 (Spring 2014): 258-259.

<sup>21</sup> Browning, *Marriage and Modernization*, ix, 1, 10, 37; and Hynes, "A Family Reflection," 109.

<sup>22</sup> Browning, *Marriage and Modernization*, ix.

<sup>23</sup> Barton, "Kinship, Marriage and Family," 23; and Hynes, "A Family Reflection," 109.

<sup>24</sup> Browning, *Marriage and Modernization*, x, 181, 224.

## Chapter One

### A History of Christian Marriage in the Classical Era and the Middle Ages (from the 1<sup>st</sup> to 15<sup>th</sup> century)

#### *Early Conceptions of Marriage*

Ancient definitions do little to clarify the nature or conception of marriage recognized in the Latin West of the Greco-Roman world.<sup>25</sup> Some scholars simply state that marriage was a social fact – a cultural universal where unions varied in form across different people and eras.<sup>26</sup> The few definitions of marriage found in surviving classical documents tend to identify marriage as a human institution which adheres to the natural law.<sup>27</sup> The union of a man and a woman was considered a collaborative partnership which formed a single social unit, ideally for life.<sup>28</sup> Those who associated marriage to the natural law also believed that having and raising children was an essential condition (in Latin, *sine qua non*) to a marriage union.<sup>29</sup> The classical Roman jurists and legislators, however, were likely unconcerned with determining the purpose of a marriage, but were instead preoccupied with the legitimacy of a marriage and the consequences of a failed union.<sup>30</sup> Marriage, therefore, primarily concerned the validity of a marital union between a woman and a man, children born in wedlock, the transfer of property, and interfamilial connections.<sup>31</sup>

The formation of a marriage is just as difficult to confirm.<sup>32</sup> Marriage, at the least, is markedly secular in its origin and was a civil custom accessible to all individuals both religious or non-religious.<sup>33</sup> Marriage was also processual rather than an ‘all-or-nothing’ event, which would only become common around the central Middle Ages.<sup>34</sup> The process for entering into a marriage in the pre-modern eras can be mostly discerned through ancient and medieval legal texts, dotal documents, and nuptial liturgies.<sup>35</sup> The standard procedure was for a man and a woman to establish commitment in a public agreement (*consensus*) formed with the intention to

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<sup>25</sup> Philip L. Reynolds, *Marriage in the Western Church: The Christianization of Marriage During the Patristic and Early Medieval Periods* (Boston: Brill, 2001): 10.

<sup>26</sup> Philip L. Reynolds, *How Marriage Became One of the Sacraments: The Sacramental Theology of Marriage from its Medieval Origins to the Council of Trent* (Cambridge: Cambridge University Press, 2018): 159; and Reynolds, *Marriage in the Western Church*, 13.

<sup>27</sup> An early definition from the jurist Ulpian can also be found in *The Civil Law* (in Latin, *Corpus Juris Civilis*), where he declares marriage to be ‘the legal capacity for marrying a wife’. S. P. Scott, ed, *The Civil Law, Including the Twelve Tables, the Institutes of Gaius, the Rules of Ulpian, the Opinions of Paulus, the Enactments of Justinian, and the Constitutions of Leo* (New York: AMS Press, 1973): 227; and Reynolds, *Marriage in the Western Church*, 7-9.

<sup>28</sup> Reynolds, *How Marriage Became One of the Sacraments*, 159.

<sup>29</sup> Reynolds, *How Marriage Became One of the Sacraments*, 159; and Philip L. Reynolds, “Marrying and Its Documentation in Pre-Modern Europe: Consent, Celebration, and Property”, in *To Have and to Hold: Marrying and its Documentation in Western Christendom, 400-1600*, ed. Philip L. Reynolds and John Witte, Jr. (Cambridge: Cambridge University Press, 2018): 1.

<sup>30</sup> Reynolds, *Marriage in the Western Church*, 7.

<sup>31</sup> Reynolds, “Marrying and Its Documentation in Pre-Modern Europe”, 1-2.

<sup>32</sup> Reynolds and Witte, Jr., ed., *To Have and to Hold*, ix-x.

<sup>33</sup> Reynolds, *Marriage in the Western Church*, 121.

<sup>34</sup> Reynolds, *How Marriage Became One of the Sacraments*, 160.

<sup>35</sup> Reynolds and Witte, Jr., *To Have and to Hold*, ix-x.

marry in the future.<sup>36</sup> This, essentially, was a betrothal (*sponsalia*).<sup>37</sup> The men could also gift a ring (*arrha*) as part of the betrothal.<sup>38</sup> The marriage was made official once the fiancé was led into her husband's home (*deductio*), suggesting that cohabitation was integral to a legitimate marriage, and was sometimes celebrated with a secular or religious ceremony.<sup>39</sup> We can discern from the sermons of Saint John Chrysostom that wedding ceremonies, at least up until the early Middle Ages, were held in the home of the newlyweds, followed by a banquet similar to traditional receptions today.<sup>40</sup> Ceremonies, marriage liturgies, banquets, and even betrothals were all optional customs to be implemented into a marriage union as desired in the pre-modern Latin West.<sup>41</sup> Consummation following a marriage, at the time, was also unnecessary to the completion of the union, though a wife was generally expected to fulfill her husband sexually throughout the marriage.<sup>42</sup> Some of these classical and early medieval marriage customs are notably still prevalent in contemporary western culture.<sup>43</sup> In the pre-Christian cultures under the Roman law, however, marriage norms presumably differed between the social classes and further changed with each reigning Emperor.<sup>44</sup>

### *Marriage Under Roman Law*

The views and laws on sex and partnerships were predominantly decided by Roman jurists and legislators throughout the first millennium.<sup>45</sup> As a secular practice, a marriage was validated under the civil law of the Roman Empire.<sup>46</sup> Jurists acknowledged the *consensus* as the only true requirement for marriage.<sup>47</sup> The custom of the *deductio* and the cohabitation of the spouses was likely a necessary condition of a valid marriage as well.<sup>48</sup> The existence of marital

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<sup>36</sup> The Latin *consensus* is not akin to the modern English understanding of the term. The *consensus* was often a verbal transaction between the joining families of a man and his selected fiancé, rather than the man and woman themselves. The women were the object of the agreement in that the man and his family were investing in a wife and the wealth that came with marrying into her family. Should one of the parties fail to uphold the agreement, the engagement would be broken off. Reynolds, *How Marriage Became One of the Sacraments*, 160-161; and Reynolds, "Marrying and Its Documentation in Pre-Modern Europe", 3.

<sup>37</sup> The agreement attached to the *sponsalia* (the verb 'to promise') is not synonymous with the agreement attached to the marital *consensus*. Reynolds, *Marriage in the Western Church*, 3.

<sup>38</sup> The *arrha* would be returned if the engagement was broken off with good reason (such as adultery), due to the death of the man or woman, or by mutual agreement. The ring was sometimes offered with money as *arrae* and provided a greater means of penalizing those who terminated a betrothal gratuitously. Reynolds, *Marriage in the Western Church*, 6.

<sup>39</sup> Reynolds, *How Marriage Became One of the Sacraments*, 162; and Reynolds, *Marriage in the Western Church*, 33.

<sup>40</sup> See Chrysostom's homily on Colossians 4:18 and his sermon on marriage. John Chrysostom, *On Marriage and Family Life*, trans, Catherine P. Roth and David Anderson (New York: St Vladimir's Seminary Press, 1986): 12, 73-88.

<sup>41</sup> Betrothals were an informal promise to wed. The *consensus*, however, was a binding agreement. Reynolds, *Marriage in the Western Church*, 3, 6; and Reynolds and Witte, Jr., *To Have and to Hold*, ix.

<sup>42</sup> Reynolds, *How Marriage Became One of the Sacraments*, 161, 165.

<sup>43</sup> Reynolds, *How Marriage Became One of the Sacraments*, 159.

<sup>44</sup> Evidence of specific customs is fragmented and incidental. Reynolds, *How Marriage Became One of the Sacraments*, 159; and see Reynolds, *Marriage in the Western Church*, 3-43 on different reigning Roman emperors.

<sup>45</sup> Reynolds, *Marriage in the Western Church*, xiii, xviii, 146.

<sup>46</sup> Reynolds, *Marriage in the Western Church*, 121.

<sup>47</sup> Parental consent was usually required, but marriages contracted without parental consent, while considered improper, were accepted under civil law. Reynolds, *Marriage in the Western Church*, 22, 25.

<sup>48</sup> Reynolds, *Marriage in the Western Church*, 33-34.

affection (*maritalis affectio*) between a cohabiting couple of legal marriage status (*conubium*) was enough to consider a man and a woman to be properly married as opposed to concubinage, much like the common law of today.<sup>49</sup> Children, however, were only legitimate when conceived during a legal marriage union and were considered an accident outside of a proper marriage.<sup>50</sup> Saint Augustine of Hippo (354-430) acknowledges the consequences of concubinage and having a child out of wedlock compared to a proper marriage union in his *Confessions*:

She was not my partner in what is called lawful marriage [...] Nevertheless, she was the only girl for me, and I was faithful to her. With her I learnt by direct experience how wide a difference there is between the partnership of marriage entered into for the sake of having a family and the mutual consent of those whose love is a matter of physical sex, and for whom the birth of a child is contrary to their intention – even though, if offspring arrive, they compel their parents to love them.<sup>51</sup>

An official dotal documentation was also unnecessary for a marriage union to be contracted and considered valid under the civil law, but it was helpful for confirming the legitimacy of a marriage and any children conceived from the union, especially among certain social classes, with many newlyweds opting to sign or seal a contract during a wedding ceremony.<sup>52</sup> The Roman law would interfere in a marriage only when it was deemed necessary, often when the legitimacy of a marriage was in question.<sup>53</sup>

Although spouses would marry with the intent of remaining together for life, both divorce and remarriage were possible at the time.<sup>54</sup> There are no known ancient or early medieval Roman legal texts which imply marriage was indissoluble; rather, evidence suggests that the will and resolve of either spouse to separate was enough to dissolve a marriage union.<sup>55</sup> The right to divorce was likely by virtue of the principle of *consensus*, in that the intention to be married was a condition of the formation of a marriage.<sup>56</sup> If there was no longer *maritalis affectio* between a cohabiting couple, then the marriage itself was no longer valid under Roman law.<sup>57</sup> The Roman jurists and legislators may have seen no legal reason to prevent a divorce, and were instead concerned with the validity of a union and consequences which followed a separation, particularly in terms of children, inheritance, and social status.<sup>58</sup> The reigning Roman emperors who allowed for divorce understood the goal to be remarriage and did not consider the marital

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<sup>49</sup> Concubinage was accepted as a stable monogamous sexual relationship under Roman law. Reynolds, *Marriage in the Western Church*, 20-21, 25, 38; and see Joshua M. Gold, “Common Law or Cohabitation: A Primer for Couples’ Counselors”, *Family Journal* (Summer 2019): 257-260 for a concise description of contemporary common law and cohabitation norms.

<sup>50</sup> Men who chose a concubine, with or without children, would also not have the welfare of a dowry. Reynolds, *Marriage in the Western Church*, 38.

<sup>51</sup> Conf. IV. II. Saint Augustine, *The Confessions*, trans, Henry Chadwick (New York: Oxford University Press, 2008): 53.

<sup>52</sup> Dotal documents were essentially a form of marriage contract. It became common for spouses to form a contract particularly among upper-class men who married lower-class women, becoming a universal practice in late Roman law. Reynolds, *Marriage in the Western Church*, 27.

<sup>53</sup> Reynolds, *Marriage in the Western Church*, 7.

<sup>54</sup> Reynolds, *How Marriage Became One of the Sacraments*, 159.

<sup>55</sup> Reynolds, *Marriage in the Western Church*, 35, 61.

<sup>56</sup> Reynolds, *How Marriage Became One of the Sacraments*, 169; and Reynolds, *Marriage in the Western Church*, 22.

<sup>57</sup> Reynolds, *Marriage in the Western Church*, 48.

<sup>58</sup> Reynolds, *How Marriage Became One of the Sacraments*, 169.

bond to be indissoluble.<sup>59</sup> Adultery was also an accepted reason for divorce under Roman law; however, the highly regarded *univira*, which described a married woman who remained faithful to her husband, suggests that marital permanence was considered ideal, and so Roman laws on divorce and remarriage may not have been necessarily supported by all people of the Roman empire, both religious and non-religious.<sup>60</sup> The ancient and early medieval Roman laws on divorce and remarriage are considerably different from what would become the normative Western position, which would eventually begin to change under the influence of Christianity.<sup>61</sup>

### *Christian Marriages in Ancient and Medieval Culture*

The practice of marriage unquestionably existed prior to Jesus' ministry along with customs that are still found in the traditional form of marriage today, such as wedding banquets.<sup>62</sup> Little is known, however, about the marriages of Christian spouses in the classical era and the early Middle Ages.<sup>63</sup> As an existing secular norm, marriage was not a practice that was instituted by the early church and there were no specifically Christian weddings for many centuries.<sup>64</sup> There is nothing in classical texts which suggest that Christians had to follow any distinct marriage customs or that the church could enforce laws towards the validation of a marriage besides advising couples seeking marriage on how to sanctify the union, and although divorce and remarriage were disapproved of there are no ancient documents which dictate a consistent perspective on the subject.<sup>65</sup> Christians and the church did not have a system of ecclesiastical norms and written laws during the Patristic period, but instead practiced ideas informed by the Scripture and oral traditions.<sup>66</sup> The Christian movement was also a Jewish sectarian group at the time, and so it can be presumed that the earliest conception of marriage was mostly based on the Mosaic law of the Old Testament.<sup>67</sup> The only elements which distinguished Christians from non-Christians were the rites of baptism and the Eucharist, which were both practices formed and established in Christianity, as well as the Christian writings that would form the New Testament.<sup>68</sup> Christians prior to the Middle Ages, therefore, likely joined together in marriage just as non-Christians did under the civil law.<sup>69</sup>

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<sup>59</sup> Reynolds, *Marriage in the Western Church*, 63.

<sup>60</sup> The crime of infidelity tended to apply only to women adulterers, though this varied with each reigning Roman emperor. People both Christian and non-Christian also seemed to condemn the breaking of a betrothal, which was understood as an agreement and a solemn vow to marry in future. Reynolds, *How Marriage Became One of the Sacraments*, 178; and Reynolds, *Marriage in the Western Church*, 9, 52, 122.

<sup>61</sup> Reynolds, *Marriage in the Western Church*, 63, 178.

<sup>62</sup> Andrew Davison, *Why Sacraments?* (London: Society for Promoting Christian Knowledge Publishing, 2013): 71; and see the gospel of John (2: 1-11), wherein Jesus attends a wedding celebration with a banquet.

<sup>63</sup> Reynolds, *How Marriage Became One of the Sacraments*, 181.

<sup>64</sup> Chrysostom, *On Marriage and Family Life*, 11; and Reynolds, *Marriage in the Western Church*, xviii-xix.

<sup>65</sup> Reynolds, *How Marriage Became One of the Sacraments*, 180; and Reynolds, *Marriage in the Western Church*, xviii-xix.

<sup>66</sup> Christian theology on marriage and the family always turned to the teachings found in the Scripture, particularly the creation narratives in the Book of Genesis. Stephen C. Barton, "Biblical Hermeneutics and the Family," in *The Family in Theological Perspective*, ed. Stephen C. Barton (London: T&T Clark, 1996): 3; and Reynolds, *Marriage in the Western Church*, xiv, 146.

<sup>67</sup> Chrysostom, *On Marriage and Family Life*, 7-8.

<sup>68</sup> Similar rituals could be found and were precedent in secular cultures; however, the rites of baptism and the eucharist were considered unique to Christianity. Reynolds, *Marriage in the Western Church*, xiii, xviii.

<sup>69</sup> A letter written by Pope Nicholas I in 866 outlines the early medieval nuptial process, starting with the *sponsalia*, followed by the gifting of the *arrha*, and completed with the custom of *deductio* and the cohabitation of

While the marriage of Christians was not in itself different from non-Christians, there were certain processes that proper Christians were expected to follow.<sup>70</sup> Marriage among Christians was considered both a secular and holy vocation.<sup>71</sup> Couples where at least one person was a baptized Christian were encouraged to first seek permission to marry from a bishop.<sup>72</sup> Once the bishop had authorized the marriage and the union was validated under the civil law, the church could sanction the marriage of the Christian converts by joining the spouses together in Holy Communion, similar to the modern convalidation of a civil marriage.<sup>73</sup> The church, as such, could essentially baptize a civil marriage union as Christian.<sup>74</sup> The ‘human marriage’ – that is, a marriage formed under civil law – would be transfigured by the blessing of the church and brought up into the Kingdom of God.<sup>75</sup> Alternatively, an already long existing marriage of newly baptized converts could be raised to a Christian union.<sup>76</sup> Therefore, a Christian marriage was only different from a non-Christian marriage insofar as one or both of the spouses were baptized members of the church and that a bishop had consecrated the union.<sup>77</sup> Wedding ceremonies may have been a common marriage custom among Christians, either held in the home or before the church (*in facie ecclesiae*); although, while the early medieval church may have urged marriages between Christian spouses to be held *in facie ecclesiae*, the marriage was not considered to be otherwise invalid or essentially non-Christian.<sup>78</sup> Ceremonies offered a setting to have a priest bless the marriage and for the new union to begin in holiness.<sup>79</sup> While Christians were subject to the civil marriage laws of the Roman empire, the church and its converts clearly had a distinct hermeneutic of the proper marriage process.<sup>80</sup> The change from civil to more ecclesiastical marriage laws, however, would only begin to shift about three centuries into the millennium.<sup>81</sup>

### *The Christianization of Marriage*

In the early fourth century, Christianity was granted legal status by the Roman Emperor Constantine (272-337).<sup>82</sup> During this period, the church and its followers also began to work

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the newlyweds. He further assures any couple who cannot afford the more lavish formalities that only the *consensus* of the parties is necessary for a valid marriage. Nicholas I, Epist. 99 (Responsa ad consulta Bulgarum), c. 3, in MGH Epist. 6, Epistolae Karolini Aevi 4 (1925), 570 in Reynolds, “Marrying and Its Documentation in Pre-Modern Europe”, 4-6; and Reynolds, *Marriage in the Western Church*, xviii.

<sup>70</sup> Reynolds, *Marriage in the Western Church*, xxi; and Reynolds, “Marrying and Its Documentation in Pre-Modern Europe”, 6.

<sup>71</sup> Reynolds, *Marriage in the Western Church*, xviii.

<sup>72</sup> Chrysostom, *On Marriage and Family Life*, 12.

<sup>73</sup> Chrysostom, *On Marriage and Family Life*, 12; and for a description of the convalidation of marriages see Joseph M. Champlin, “Bringing Your Marriage into the Church: Convalidation of Civil Marriages”, *Catholic Update* (Summer 2004): 1-2.

<sup>74</sup> Reynolds, *Marriage in the Western Church*, 121.

<sup>75</sup> Chrysostom, *On Marriage and Family Life*, 13.

<sup>76</sup> Reynolds, *Marriage in the Western Church*, 121.

<sup>77</sup> Reynolds, *Marriage in the Western Church*, xix-xx.

<sup>78</sup> Reynolds, *Marriage in the Western Church*, xix.

<sup>79</sup> Bishops and churchmen were likely unaccepting of common marriage ceremonies. In his homily on Colossians 4:18 and a sermon on marriage, Chrysostom appears to condemn common ostentatious wedding banquets and insists that Christians should invite the clergy to the wedding instead of local non-Christian performers so that the marriage union can begin in both solemnity and holiness. Chrysostom, *On Marriage and Family Life*, 12, 21, 73-88; and Reynolds, *Marriage in the Western Church*, xviii.

<sup>80</sup> Reynolds, *Marriage in the Western Church*, xv.

<sup>81</sup> Reynolds, *Marriage in the Western Church*, xix, 121.

<sup>82</sup> Chrysostom, *On Marriage and Family Life*, 7.

towards establishing itself by way of a distinct Christian wedding process and marriage laws in light of the Scriptures.<sup>83</sup> In his book on the Christianization of marriage in the early Middle Ages, Philip L. Reynolds defines the movement as follows:

Christianization was the process by which marriage became differentiated from its non-Christian origins and environment under the influence of Christianity itself [...] Insofar as the influence of the Christian faith (of the Christian Scriptures and of specifically Christian beliefs and ideals) caused marriage to become distinguished from the relevant pre-Christian traditions, we may say that marriage had become Christianized [...] On the one hand, Christians applied to the particular case of marriage certain general ethical or societal principles. On the other hand, there were Christian ideas and doctrines that pertained specifically to marriage, and in this case the distinction between what was Christian and what was non-Christian was usually sharper.<sup>84</sup>

The theology of marriage had been a concern to the Christian church from its inception and was greatly discussed by both Jesus in the synoptic gospels and Paul the Apostle in his epistles.<sup>85</sup> While Christian notions of marriage were mostly formed in contradiction to the civil laws of marriage, many aspects of the secular norm were naturally reappropriated or Christianized, such as recognizing the mutual consent of the spouses alone as sufficient for contracting a marriage union.<sup>86</sup> The distinction became clearer as Christians settled on what aspects of their faith and lifestyle distinguished them from non-Christians and how a devotee might self-identify as Christian.<sup>87</sup>

The greater development of Christian theology and law in the early Middle Ages happened to occur during a movement towards controlled sexual behavior and conformity to sexual ethics in parts of the Roman Empire, particularly in Stoic groups.<sup>88</sup> While most sexual matters were stigmatized in the church, sex within marriage was not condemned.<sup>89</sup> Marriage was seen as good because such unions would generate offspring, effectively fulfilling God's mandate to humanity from its creation in the Old Testament.<sup>90</sup> Early Christians, therefore, accepted marriage as a monogamous commitment and criticized sexual indulgences outside of the civic duty to have children.<sup>91</sup> The Latin Fathers, in turn, came to view marriage as a compact as

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<sup>83</sup> Chrysostom, *On Marriage and Family Life*, 8.

<sup>84</sup> Reynolds, *Marriage in the Western Church*, xiv.

<sup>85</sup> John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville: Westminster John Knox, 2012): 16.

<sup>86</sup> Some of the Germanic laws and customs on marriage were likely reappropriated into Christian marriages as well, but evidence of specific influences is difficult to ascertain. Reynolds, *How Marriage Became One of the Sacraments*, 157; and Reynolds, *Marriage in the Western Church*, xx, xxviii, 74.

<sup>87</sup> Reynolds, *Marriage in the Western Church*, xv.

<sup>88</sup> Stoic belief had stressed that sexual acts should only be performed for the sake of generating offspring. Reynolds, *Marriage in the Western Church*, 18.

<sup>89</sup> Roland H. Bainton, *What Christianity Says About Sex, Love and Marriage* (New York: Association Press, 1957): 56.

<sup>90</sup> The OT emphasized a duty to progeny. God created man and woman for the sake of having children in Gen 1:27-28. God blesses Noah, Abraham, and Rebekah with progeny in Gen 9:1-7, Gen 22:17, and Gen 24:60 respectively. Psalmists also refer to descendants as a blessing from God in Ps 127 and 128. Chrysostom, *On Marriage and Family Life*, 9; Reynolds, *How Marriage Became One of the Sacraments*, 17; and Reynolds, *Marriage in the Western Church*, xxvi.

<sup>91</sup> There are some historical instances of polygamy among Christian groups, likely influenced by certain biblical passages in the Old Testament and further driven by the desire to increase the population. Christians, however, did not adopt or accept polygamy into their faith and marriage practices. Bainton, *What Christianity Says About Sex, Love and Marriage*, 10.

opposed to a social fact.<sup>92</sup> From an anthropological view, marriage concerned the joining together of a man and a woman emotionally, often understood as a union formed in friendship or comfort, and in economic affairs, which might include inheritance, social status, offspring, and other cultural or social matters.<sup>93</sup> From a uniquely theological view, on the other hand, marriage involved adhering to a tradition built upon the writings of the Scripture and, further, was an undertaking between not only the spouses but towards God's will as well.<sup>94</sup> The Christianization of marriage in the Latin West and the development of a proper marriage theology in the Middle Ages is linked to this ongoing exegesis of select passages from the gospels and the Pauline epistles in the New Testament.<sup>95</sup>

### *Patristic Exegesis*

The first notable collection of texts include Jesus' instructions on divorce and adultery in the synoptic gospels.<sup>96</sup> Throughout chapter five of the gospel of Matthew, also known as the start of the 'Sermon on the Mount' or the 'Great Sermon', Jesus, who was a Jewish preacher, addresses the moral law as instructed by Moses and the stipulations of the Kingdom of God to his disciples.<sup>97</sup> Concerning marital permanence and acts of infidelity, Jesus proclaims the following prohibitions to his followers:

27 You have heard that it was said, 'You shall not commit adultery.' 28 But I say to you that everyone who looks at a woman with lust has already committed adultery with her in his heart. [...] 31 It was also said, 'Whoever divorces his wife, let him give her a certificate of divorce.' 32 But I say to you that anyone who divorces his wife, except on the ground of sexual immorality, causes her to commit adultery, and whoever marries a divorced woman commits adultery.<sup>98</sup>

The meaning of the word 'adultery' in the text (in Greek, *porneia*) is a common dispute in exegesis, but was accepted in the Patristic period to refer to prohibited sexual acts by an adulterer.<sup>99</sup> Jesus modifies the Mosaic law on divorce to being permissible in cases of adultery in Matthew alone, a belief notably held by the school of Shammai, of which Jesus may have been a student, and further implies that a divorced woman cannot remarry since she is considered to still

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<sup>92</sup> Reynolds, *Marriage in the Western Church*, 42.

<sup>93</sup> Stephen C. Barton, "Kinship, Marriage and Family: Learning from Tradition," *Colloquium* 50, no 2 (Winter 2018): 3, 7.

<sup>94</sup> Barton, "Kinship, Marriage and Family," 3.

<sup>95</sup> Reynolds, *Marriage in the Western Church*, xxii.

<sup>96</sup> Reynolds, *Marriage in the Western Church*, xxviii.

<sup>97</sup> The Great Sermon can be considered an example of 'perfectionist legalism' – that is, the demanding and endless endeavor to perfectly follow the principles in the Scriptures. Jesus was likely aware of the extremity in God's demands and the difficulty that his follower would have to obey such laws but insists that his disciples strive towards the path of perfection through absolute obedience in God's demands for salvation, an obligation prescribed to Israel in the Old Testament. Christians would also be expected to follow the law wholeheartedly, prioritizing the demands of the Kingdom of God over their own worldly needs. The law maintained by Jesus was unquestionably based on the Mosaic law as well as ethical principles found in Judaism which were now being propounded with new urgency and dimension under his ministry. W. F. Albright and C. S. Mann, *Matthew: The Anchor Bible*, 1<sup>st</sup> ed. (New York: Doubleday & Company, Inc., 1971): 50-51, 53; and Witte, Jr., *From Sacrament to Contract*, 17.

<sup>98</sup> See Matt 5: 27-32, NSRVUE. Albright and Mann note that Jesus' prohibition against adultery in verse 27 also includes any form of licentious behavior or thoughts. Albright and Mann, *Matthew*, 63.

<sup>99</sup> The term *porneia* could also signify premarital sex, prostitution, incest, or other forms of forbidden or licentious love. Albright and Mann, *Matthew*, 65; and Reynolds, *Marriage in the Western Church*, 173-174.



be joined to her ex-husband (*Matt 5: 31-32*).<sup>100</sup> In chapter nine of Matthew, Jesus would again emphasize that divorce was only permitted by *porneia* (*Matt 19: 9*), proclaiming that the Mosaic law of divorce was a change made by Moses for the sake of man but was not part of God's original command in the creation narratives (*Matt 19: 8*), in which God formed a single man and woman to join together as a single unit for life (*Matt 19: 4-6*).<sup>101</sup> In Mark and Luke on the other hand, Jesus prohibits divorce entirely (*Mark 10: 11*; and *Luke 16: 18*).<sup>102</sup> Jesus also only condones divorce for men with an unchaste wife in Matthew (*Matt 5: 32*; and *Matt 19: 9*), but condemns the licentious act for both genders in Mark (*Mark 10: 12*).<sup>103</sup> These passages in the synoptic gospels, though conflicting in some ways, make it clear that divorce was seen as reprehensible to Jesus and his followers, but whether divorce should be allowed at all and under what conditions is subject to interpretation still today.<sup>104</sup> Jesus, at the least, believed marriage to be a union of two persons, a man and a woman, who become a single unit as presented in the Old Testament (*Gen: 1: 27*; and *Gen 2: 24*), and that spouses who have entered into marriage should not separate what God had brought together in the beginning.<sup>105</sup>

Jesus' discourse on marriage in relation to the Kingdom of God would begin to be expounded into a proper moral theology in the Pauline epistles.<sup>106</sup> In the fifth chapter of the epistle to the Ephesians, the author presents instructions for a proper Christian household using the relationship between Jesus and the church to develop the earliest theological principles of authority and love in a marriage union:

22 Wives, be subject to your husbands as to the Lord,<sup>23</sup> for the husband is the head of the wife just as Christ is the head of the church, his body, and is himself its Savior<sup>24</sup> Just as the church is subject to Christ, so also wives ought to be, in everything, to their husbands.<sup>25</sup> Husbands, love your wives, just as Christ loved the church and gave himself up for her [...]<sup>31</sup> "For this reason a man will leave his father and mother and be joined to his wife, and the two will become one flesh."<sup>32</sup> This is a great mystery, but I am speaking about Christ and the church.<sup>107</sup>

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<sup>100</sup> The idea of marital permanence was a major departure from the teachings in the Old Testament and the Jewish law, which had allowed husbands to legally divorce their wives as willed (*Deut. 24: 1-3*). There was debate, however, between the prominent schools of thought for Jewish scholars at the time regarding what constituted a good cause for divorce. The school of Shammai had believed unchastity to be the only permissible grounds for divorce, while the school of Hillel had a more lenient attitude toward divorce laws. Albright and Mann, *Matthew*, 63-65, 225-227; Bainton, *What Christianity Says About Sex, Love and Marriage*, 12; Chrysostom, *On Marriage and Family Life*, 8; and Reynolds, *Marriage in the Western Church*, xxiii, 173.

<sup>101</sup> Jesus likely meant that Moses had acted correctly at the time but now believed that Christians should practice the standards set in Paradise prior to the fall, where man was expected to leave his family to join with his wife as a single unit (*Gen 2: 24*). God had specifically made the first man and woman for the other (*Gen 1: 27*); therefore, the joining of a man and woman in marriage, presumably, was to be formed with the same principle. Most biblical commentators agree that some of the words spoken by Jesus in Matthew 19 verse 9, however, were altered for a specific community. Albright and Mann, *Matthew*, 225-226; and Bainton, *What Christianity Says About Sex, Love and Marriage*, 13.

<sup>102</sup> Jesus also refers to Genesis to reinforce the prohibition on divorce (*Mark 10: 6-8*). Albright and Mann, *Matthew*, 65; and Barton, "Biblical Hermeneutics and the Family," 3.

<sup>103</sup> Albright and Mann, *Matthew*, 225.

<sup>104</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 13.

<sup>105</sup> Reynolds, *Marriage in the Western Church*, xxiii.

<sup>106</sup> Albright and Mann, *Matthew*, 53; and Reynolds, *Marriage in the Western Church*, xxviii.

<sup>107</sup> See Ephesians 5: 22-32, NSRVUE. Many modern scholars identify the author of Ephesians as a follower of Paul rather than the apostle himself due to some inconsistencies in the writing of the epistles. The author of Ephesians likely used the rules for Christian households presented in the epistle to the Colossians (*Col 3: 18-22*) as a framework when expounding his own version of the rules. The text, however, is still considered essentially Pauline

The author of Ephesians uses the family structure to stress the loving relationship that should exist among Christian families; specifically, that men should care for their wives in the same way Jesus cared for the church, and that women should be dedicated to their husbands just as the church is to Jesus (*Eph 5: 22-24*).<sup>108</sup> The author identifies the love between Jesus and the church as the exemplary union which a marriage bond should strive to emulate (*Eph 5: 25*), quoting Genesis as Jesus had in his exhortation on how married persons become a whole unit (*Eph 5: 31*).<sup>109</sup> Such unions represent the mystery (*mystērion*), or the great sacrament (in Latin, *sacramentum magnum*), of human creation and redemption through the sacrificial union Jesus shared with the church (*Eph 5: 32*).<sup>110</sup> The mystery of marriage, often construed as sacrament, was likely intended to be a prophetic description of the bond between Jesus and the church rather than a sacrament which imparts grace, such as baptism or the Eucharist, though exegetes would come to argue otherwise during the central Middle Ages.<sup>111</sup> The hierarchy in Ephesians, however, would be challenged by modern scholars with the impartiality in Paul's epistles to the Corinthians.<sup>112</sup> In the seventh chapter of the first epistle to the Corinthians, the apostle addresses the purpose of marriage and God's command for divorce:

<sup>1</sup> Now concerning the matters about which you wrote: "It is well for a man not to touch a woman."<sup>2</sup> But because of cases of sexual immorality, each man should have his own wife and each woman her own husband. <sup>3</sup> The husband should give to his wife her conjugal rights, and

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in its structure, which often included a Christ-hymn, a reference to Genesis, and some interwoven Jewish or pagan sayings. Markus Barth, ed., *Ephesians 4-6: The Anchor Bible, Volume 34A* (New York: Doubleday & Company Inc., 1981): 652; Reynolds, *Marriage in the Western Church*, xiv; and Witte, Jr., *From Sacrament to Contract*, 18.

<sup>108</sup> Every verse in Eph 22-33 notably contains a Christological motive. Despite the inclusion of a distinct power structure, however, the goal of the author is not to establish familial relationships but to instead Christianize marriage by stressing that all Christians are subject to one another in Jesus. Barth, *Ephesians 4-6*, 659; and Reynolds, *How Marriage Became One of the Sacraments*, 63.

<sup>109</sup> The author tends to describe marital love as a poet or novelist would, using the love between Jesus and the church as his inspiration and model. Jesus is depicted in verse 25 as a metaphorical bridegroom to the church and his followers, who are collectively his bride. The allegorical love Jesus has for the church, which he loves like his own body and flesh (*Eph 5: 29*), is later used in verse 31 to stress a Christological hermeneutic of the second creation narrative in relation to the human marriage union. Although the author does not explicitly refer to the verse as originating in Genesis, it was likely intended to be a direct quotation as well as an elaboration upon the law presented by Jesus in the gospels. Barton, "Biblical Hermeneutics and the Family," 3; Barth, *Ephesians 4-6*, 623-624, 633-634, 637-639, 652; Reynolds, *How Marriage Became One of the Sacraments*, 63; Reynolds, *Marriage in the Western Church*, xxv; and Witte, Jr., *From Sacrament to Contract*, 18.

<sup>110</sup> The author notably ignores the first creation narrative in his discourse on marriage. The author may have wanted to place focus in verse 32 on the prophetic connotation in the second creation narrative, which some viewed as foretelling the *Parousia*, or the Second Coming of Jesus. Barth, *Ephesians 4-6*, 641, 653-654; Chrysostom, *On Marriage and Family Life*, 10.

<sup>111</sup> The translation from the Greek word *mystērion* to the Latin *sacramentum* is now perceived as a mistranslation by many biblical scholars. This 'accident' in translation would shape the Christianization of marriage in the Western World during the central Middle Ages. Reynolds, *How Marriage Became One of the Sacraments*, 2; and Reynolds, *Marriage in the Western Church*, xxvi.

<sup>112</sup> Some scholars argue that the verb 'be submissive' (*hypotassomai*) does not suggest that women are inferior to men; rather, that a voluntary subordination toward one another should exist between a husband and wife. The demand to be subordinate occurs in three verses in the text. In each, the command is mutual between spouses (*Eph 5: 21*), and wives are only to be subordinate to their husbands as opposed to all men (*Eph 5: 22*). A wife's subordination to her husband should also be understood Christologically (*Eph 5: 24*). There is no evidence that men were thought to rule over women in Paul's time, and so the text must be interpreted within the context of the connecting verses and its author. Barth, *Ephesians 4-6*, 609-611, 617-18, 620; Chrysostom, *On Marriage and Family Life*, 16.

likewise the wife to her husband. [...] <sup>8</sup> To the unmarried and the widows I say that it is good for them to remain as I am. <sup>9</sup> But if they are not practicing self-control, they should marry. For it is better to marry than to be aflame with passion. <sup>10</sup> To the married I give this command – not I but the Lord – that the wife should not separate from her husband <sup>11</sup> but if she does separate, let her remain unmarried or else be reconciled to her husband and that the husband should not divorce his wife.<sup>113</sup>

Despite encouraging Christians to practice continence while being celibate himself (*1 Cor 7: 8*), Paul contradicts the Corinthians' stance on sexual relations, which favors celibacy (*1 Cor 7: 1*), and advocates for marriage as a solution to sexual frustration and a deterrent for infidelity (*1 Cor 7: 2*).<sup>114</sup> Paul reasons that a proper marriage, one in which all parties have their sexual needs met (*1 Cor 7: 3*), is both acceptable and needful for controlling sexual desire (*1 Cor 7: 9*).<sup>115</sup> Divorce, for Paul, is ill-advised by God's command (*1 Cor 7: 10*), like Jesus had proclaimed in the synoptic gospels, but he further adds that a woman who does divorce her husband should not remarry, opting for a life of absolute abstinence, or repair the relationship with her husband (*1 Cor 7: 11*).<sup>116</sup> These passages in the Pauline epistles, despite seemingly conflicting in views on gender equality, placed marriage within distinctly Christians values while affectively justifying marriage unions as salutary in an age where many Christians believed marriage to be irrelevant due to the expectation of the imminent upcoming of the Kingdom of God.<sup>117</sup> The aforementioned texts in the Pauline epistles, as well as those from the synoptic gospels would form the basis of theological discourse on the nature and purpose of marriage amongst the Latin Fathers, with Augustine becoming a leading exponent of marriage doctrine and theology.<sup>118</sup>

### *Augustine's Theology of Marriage*

There is no Latin theologian during the patristic era who contemplated or wrote about the nature and purpose of marriage prior to the Reformation as comprehensively as Augustine had, and he is considered one of the most important figures in the development of Western marriage

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<sup>113</sup> See 1 Cor 7: 1-11, NSRVUE. Keener notes that the verb to touch or 'touching' was a common idiom for intercourse during ancient times, either in marriage or not. Craig S. Keener, *1-2 Corinthians* (Cambridge: Cambridge University Press, 2005): 62.

<sup>114</sup> Most scholars agree that Paul is directly quoting the Corinthians in verse 1, but debate whether he is refuting or conceding to their statement on sexual intercourse. If Paul is responding in agreement, it is only in the case of intercourse outside of marriage. In marriage, Paul argues that married people should have intercourse. Keener, *1-2 Corinthians*, 62; Reynolds, *Marriage in the Western Church*, xxvii.

<sup>115</sup> The verb to burn or to be 'burning' with passion was a common description for unfulfilled desire in the Greek and Roman languages. Marriage was seen as a disincentive to extramarital intercourse since unfulfilled sexual desires, ideally, would not be an issue in a healthy sexual marriage. For those who could not endure a life of absolute abstinence, marriage was a proper alternative. Many members of St Paul's ministry were married (*see Rom 16: 3, 7, 15*), and he further defended missionaries traveling with their wives (*1 Cor 9: 5*). It was also common for conjugal rights and obligations to be established in a marriage contract; however, non-Christians did not always hold men to the same standard of fidelity as women. Chrysostom, *On Marriage and Family Life*, 9; Keener, *1-2 Corinthians*, 62-63; Reynolds, *Marriage in the Western Church*, xxvii; and Witte, Jr., *From Sacrament to Contract*, 16-18.

<sup>116</sup> Albright and Mann, *Matthew*, 65.

<sup>117</sup> The reason Christians avoided marriage at the time was eschatological. Many Christians, including Paul, believed that *Parousia*, or the second coming of Jesus, was imminent and that Christians would be brought up into the Kingdom of God where marriage would no longer exist. Bainton, *What Christianity Says About Sex, Love and Marriage*, 24-25; and Reynolds, *Marriage in the Western Church*, xxvii-xxviii.

<sup>118</sup> Reynolds, *Marriage in the Western Church*, xxvii-xxviii, 65, 310.

theology.<sup>119</sup> During the fifth century, Augustine's thoughts on sex and the Scripture changed under the influence of Ambrose of Milan (339-397), altering his impression of the Genesis creation narratives (*Gen 1: 28*; and *Gen 2: 4-25*) from a spiritual to a literal and historical understanding of the original condition of the first man and woman.<sup>120</sup> Acting as the antithesis to both the extreme asceticism advocated by Jerome and the remarks against marriage propounded by the Manicheans, a matured Augustine began to view sexual procreation as being a part of God's original plan in the creation of man and woman as opposed to a result of the Fall (*Gen 3: 1-24*); however, the good of procreation had instead become tainted.<sup>121</sup> Augustine believed that the duty (*officium*) to 'increase and multiply' (*Gen 1: 28*) of the old dispensation had ended with the advent of Jesus, and that the new dispensation was celibacy; but, if a Christian was incapable of controlling their lustful urges then they should turn to marriage as a remedy (*remedium*).<sup>122</sup> The solution to the problem of sexual desire resulting from the original sin committed in the Garden of Eden, therefore, was either celibacy, which for Augustine was the preferred calling, or marriage, which was considered an acceptable and blessed alternative.<sup>123</sup>

Augustine wrote his treatise 'On the Good of Marriage' (*De Bono Coniugali*) in the year 401 to mediate criticisms from Jerome and Jovinian on celibacy and marriage.<sup>124</sup> Augustine firmly believed marriage to be good and that it was a heresy to argue otherwise.<sup>125</sup> In *De Bono Coniugali*, Augustine provides an exposition on why marriage unions are beneficial for Christians despite being inferior to celibacy based on his exegesis of the Pauline epistles, the synoptic Gospels, and the book of Genesis, specifying three goods of marriage: procreation (*proles*), fidelity (*fides*), and sacrament (*connubi sacramentum*).<sup>126</sup> Augustine begins the treatise by establishing the marital relationship God had intended for man and woman in Genesis:

For as much as each man is a part of the human race, and human nature is something social, and hath for a great and natural good, the power also of friendship; on this account God willed to create all men out of one, in order that they might be held in their society not only by likeness of kind, but also by bond of kindred. Therefore, the first natural bond of human society is man and wife [...] Then follows the connection of fellowship in children, which is the one alone worthy fruit, not of the union of male and female, but of the sexual intercourse.<sup>127</sup>

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<sup>119</sup> David G. Hunter, "Marrying and the *Tabulae Nuptiales* in Roman North Africa from Tertullian to Augustine", in *To Have and to Hold: Marrying and its Documentation in Western Christendom, 400-1600*, ed. Philip L. Reynolds and John Witte, Jr. (Cambridge: Cambridge University Press, 2018): 95; and Philip L. Reynolds, "Marriage", in *The Oxford Guide To The Historical Reception of Augustine*, edited by Karla Pollmann and Willemien Otten (Oxford: Oxford University Press, 2013). <https://www-oxfordreference-com.lib-ezproxy.concordia.ca/view/10.1093/acref/9780199299164.001.0001/acref-9780199299164-e-461>.

<sup>120</sup> A younger Augustine was critical of the Old Testament due to its crudeness and, at the time, rejected the Christian faith. Augustine would eventually come to debate whether Adam and Eve were spiritual beings who could reproduce asexually or if sexual procreation had been intended in their creation. Reynolds, *Marriage in the Western Church*, 243, 248-249.

<sup>121</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 41; Barton, "Kinship, Marriage and Family," 3; and Reynolds, *Marriage in the Western Church*, 243, 252, 260.

<sup>122</sup> Reynolds, *How Marriage Became One of the Sacraments*, 102, 108-109; and Reynolds, "Marriage".

<sup>123</sup> Reynolds, *Marriage in the Western Church*, 249-250.

<sup>124</sup> Reynolds notes that Jerome believed that men should not marry but remain celibate while Jovinian understood marriage and celibacy to be equal in value. Reynolds, *Marriage in the Western Church*, 249, 259.

<sup>125</sup> Augustine often wrote about marriage in comparison to stances on marriage he viewed as heretical or in relation to celibacy, the latter of which was the superior way of life for Augustine. Reynolds, "Marriage".

<sup>126</sup> Reynolds, *Marriage in the Western Church*, 259.

<sup>127</sup> Augustine, *On the Good of Marriage* (Minnesota: Lighthouse Publishing, 2017), 1; and Reynolds, *How Marriage Became One of the Sacraments*, 120.

Augustine states that man and woman were the first natural fellowship (*societas naturalis*), where God formed one from the other in their creation (*Gen 2: 21-23*), and that procreation is an organic good from such partnerships.<sup>128</sup> Augustine identifies procreation as the original and first good of marriage because God had created partners for the very purpose of childbearing (*Gen 1: 28*), and although the advent of Jesus has ended that obligation, partners now have the responsibility to raise and educate children to ‘bring up after the spirit’ as Christians.<sup>129</sup> What was once exclusively an *officium* under the old dispensation became an endeavor made in friendship.<sup>130</sup>

Since procreation is good then, in turn, sexual engagement must be acceptable to some extent despite the evil of sexual desire.<sup>131</sup> Augustine explains that sexual urges can and should be channeled towards the good of procreation in a marriage where both spouses are committed to the other for the sake of remedy:

Marriages have this good also, that carnal or youthful incontinence, though it be faulty, is brought unto an honest use in the begetting of children [...] in that the lust of the flesh is repressed, and rages in a way more modestly, being tempered by parental affection [...] There is this further, that in that very debt which married persons pay one to another, even if they demand it with somewhat too great intemperance and incontinence, yet they owe faith alike one to another.<sup>132</sup>

The good of fidelity, for Augustine, is the shared ‘satisfying of lust’ in a marriage union; however, sexual intercourse and mutual satisfaction are not to be enjoyed ‘for their own sake’, which is sinful, but for the sake of companionship, children and God.<sup>133</sup> Although sexual acts are always contaminated by lust, it is pardoned (*venialis*) when used for procreative purposes between spouses but is inexcusable outside of the marriage bed.<sup>134</sup> While procreation and fidelity were both organic goods from the beginning, these goods of marriage became remedial in function after the Fall.<sup>135</sup> Echoing the apostle Paul (*1 Cor 7: 2-6*), Augustine adds that all married couples have the conjugal debt of ‘sustaining one another’s weakness’ and therefore one must remain faithful to the other in a marriage.<sup>136</sup> Augustine claims that mutual fidelity not only sustains the marriage bond but also encourages self-control over our lustful urges through the desire to procreate with a partner.<sup>137</sup> Fidelity, as such, is good because it encourages mutual

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<sup>128</sup> Reynolds, “Marriage”; and Reynolds, *Marriage in the Western Church*, xxvii, 253-254.

<sup>129</sup> Augustine, *On the Good of Marriage*, 28; and Witte, Jr., *From Sacrament to Contract*, 22.

<sup>130</sup> Augustine in later treatises almost exclusively refers to the good of marriage as being a remedy to sin. The idea that there are social gains in marriage seems to become inconsequential to Augustine, at least compared to its remedial purpose; however, friendship remained a medieval ideal in marriage unions and a needful component in a Christian relationship to moral theologians. Bainton, *What Christianity Says About Sex, Love and Marriage*, 64; and Reynolds, *Marriage in the Western Church*, 254, 279.

<sup>131</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 42.

<sup>132</sup> Augustine’s understanding of marriage as a remedy unquestionably stems from the writings of Paul (*1 Cor 7*), despite Paul never using the term ‘remedy’ himself. It should be noted, however, that some assumptions were likely made in his exegesis of the text. Augustine, *On the Good of Marriage*, 4; Reynolds, *How Marriage Became One of the Sacraments*, 125, 129; and Reynolds, *Marriage in the Western Church*, 260, 277.

<sup>133</sup> Augustine, *On the Good of Marriage*, 8, 13; and Reynolds, *Marriage in the Western Church*, 252-253.

<sup>134</sup> Reynolds, *How Marriage Became One of the Sacraments*, 102, 109

<sup>135</sup> Reynolds, “Marriage”; and Reynolds, *Marriage in the Western Church*, 260.

<sup>136</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 23; Reynolds, *How Marriage Became One of the Sacraments*, 102, 109; and Reynolds, *Marriage in the Western Church*, 275.

<sup>137</sup> Augustine has stated that marriage spouses can be intimate without the goal of children so long as there exists a chaste loyalty to the other, seemingly referring to the *consensus* in Roman law; however, the couple are

satisfaction and chastity between sexual partners, but also because faithfulness provides an ideal family environment for children to be properly raised and nurtured as Christians.<sup>138</sup>

In fulfilling the responsibility towards progeny and mutual satisfaction within a marriage, people are inevitably condemned to the sin of sexual desire; however, the act is covered by the third good of marriage, the sacrament of marriage.<sup>139</sup> Marriage as a sacrament, for Augustine, connotes a permanent bond within the marriage union:

To a degree that marriage compact entered upon a matter of a certain sacrament, that is not made void even by separation itself, since, so long as her husband lives, even by whom she hath been left, she commits adultery [...] For holy Scripture causes a hard knot, in that the Apostle says, that, by commandment of the Lord, the wife ought not to depart from her husband, but, in case she shall have departed, to remain unmarried, or to be reconciled to her husband; whereas surely she ought not to depart and remain unmarried, save from a husband that is an adulterer, lest by withdrawing from him, who is not an adulterer, she cause him to commit adultery.<sup>140</sup>

According to Augustine, a Christian marriage union cannot be dissolved by divorce unless a partner has committed adultery, as stated by Paul (*1 Cor 7: 9-11*), who had referred to the proclamation of Jesus (*Matt 5: 32; Matt 19: 6; and Mark 10: 9-12*), but could only be ended by 'the death of one' of the two spouses.<sup>141</sup> The permanence of a marriage remains even in the case of separation caused by an adulterer, as per the law of the Scripture, and so Augustine forbids remarriage for either partner in a failed union.<sup>142</sup> Augustine further states that any marriage that is formed in 'the City of our God' bears the sacramental character of the covenantal bond between man and woman in creation (*Gen 2: 24*), where God had graced 'the first union of the two' to live as one flesh, and is therefore properly indissoluble.<sup>143</sup> The 'sanctity of the Sacrament' is additionally good as it pertains to the other goods of marriage in that committed relationships, especially those with children, should be lifelong.<sup>144</sup> Augustine would also come to argue that the sacramental significance of marriage is a sign of the indissoluble relationship between Jesus and

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responsible for the child should pregnancy occur. Preventative methods were strictly forbidden for Augustine, and he condemned the use of contraception. Augustine, *On the Good of Marriage*, 6, 8; Bainton, *What Christianity Says About Sex, Love and Marriage*, 43; Reynolds, *How Marriage Became One of the Sacraments*, 109, 121; and Reynolds, *Marriage in the Western Church*, 241, 254-255, 266.

<sup>138</sup> Reynolds, *Marriage in the Western Church*, 275-276.

<sup>139</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 43.

<sup>140</sup> Augustine likely did not consider marriage to be one of the sacraments in a liturgical or ritualistic manner like the rites of baptism or the Eucharist. Augustine instead attributed sacramental significance to the marriage bond similar to how the 'sacrament of faith' (*sacramentum fidei*) is understood to be graced to Christians through the rite of baptism. Augustine, *On the Good of Marriage*, 9; Reynolds, *How Marriage Became One of the Sacraments*, 142; and Reynolds, *Marriage in the Western Church*, 63, 280, 282.

<sup>141</sup> Augustine likely believed that only Christians, who have committed themselves to the law of the Scripture, were obligated to adhere to the sacrament of marriage. Divorce was probably allowed under the Roman civil law when Augustine had written about the benefits of marriage, since the emperor Julian would have been in reign; however, Augustine understood separation to be forbidden for Christians under the law of God despite being permitted for non-Christians under the civil law. Augustine, *On the Good of Marriage*, 21; and Reynolds, *Marriage in the Western Church*, xv, 63, 126, 260 280, 282, 304.

<sup>142</sup> Augustine has acknowledged that there may be good reasons for partners to want to seek divorce and remarriage, but these reasons do not overturn the command of God. Reynolds, *How Marriage Became One of the Sacraments*, 102; and Reynolds, *Marriage in the Western Church*, 302.

<sup>143</sup> Augustine, *On the Good of Marriage*, 21; and Reynolds, *How Marriage Became One of the Sacraments*, 102.

<sup>144</sup> Augustine, *On the Good of Marriage*, 38; and Reynolds, *Marriage in the Western Church*, 295.

the church (*Eph 5: 25*), and that Christians have the obligation to participate in the exemplary bond through their marriage unions.<sup>145</sup>

Augustine aimed to reorient the misconceptions about marriage, sexual acts, and celibate life back to the original creation, fulfilled in the bond Jesus had formed with the church, and to redress marriage as truly good for Christians, although not as good as celibacy.<sup>146</sup> The stance on divorce taken by Augustine, while inspired by the Scriptures, was likely directed towards the loose civil separation laws within the Roman Empire at the time.<sup>147</sup> The fundamentals of marriage Augustine established in *De Bono Coniugali* would remain unchanged in his other writings on the topic.<sup>148</sup> While his thoughts on celibacy are mostly immaterial to the contemporary Western world, the defense that Augustine advocated for Christian marriage unions established a sound and Christological foundation for the virtue of marriage that would become the most successfully integrated theology of marriage to come from the early church fathers, and there would be no theological discourse of similar scope until the modern age.<sup>149</sup> The goodness of marriage, ‘throughout all nations’, in accordance with the goods of procreation, fidelity, and the sacrament, accounts for and offers a remedy to the problem of sin associated to sexual acts within the Christian faith.<sup>150</sup> Theological discourse on the synoptic gospels and Pauline epistles would lay out the earliest form of distinctly Christian principles on marriage; however, it was up to the early medieval theologians and members of the church to incorporate these general ideas into a systematic collection of ecclesiastical laws.<sup>151</sup> The writings of Augustine and the early church fathers would contribute to the establishment of a uniquely Christian doctrine of marriage and divorce against the prevailing civil law in the Roman Empire and, eventually, on what would become the foundation of sacramental marriage theology and dogma in the Catholic faith.<sup>152</sup>

### *Human and Divine Law*

By the fourth century, the Latin Fathers and the church had come to view marriage under three corresponding convictions, notably championed by Augustine; specifically, that marriage was the monogamous joining together of a man and woman into a single unit, that partners owed a conjugal debt to the other in a loyal marriage, and that the marriage bond is indissoluble.<sup>153</sup> The Latin Fathers also distinguished Christian from Roman or Judaic views by declaring marriage to be both a carnal relationship and a sanctified vocation, establishing greater Christological and ecclesial relevance to the marriage process.<sup>154</sup> The *consensus* found in Roman law, while mostly

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<sup>145</sup> While Augustine never refers to verse 32 of Ephesians 5, the text is assumed to have had an influence on his Christological understanding of the sacramental nature of marriage. Reynolds, *How Marriage Became One of the Sacraments*, 67; and Reynolds, *Marriage in the Western Church*, 282, 292.

<sup>146</sup> Reynolds, *Marriage in the Western Church*, 250.

<sup>147</sup> Reynolds, *How Marriage Became One of the Sacraments*, 67.

<sup>148</sup> Reynolds, “Marriage”.

<sup>149</sup> Reynolds, *How Marriage Became One of the Sacraments*, 102; Reynolds, *Marriage in the Western Church*, xxx; and Witte, Jr., *From Sacrament to Contract*, 22.

<sup>150</sup> Augustine, *On the Good of Marriage*, 38; and Reynolds, *Marriage in the Western Church*, 255.

<sup>151</sup> Witte, Jr., *From Sacrament to Contract*, 19.

<sup>152</sup> Augustine’s *De Bono Coniugali* in particular was frequented by scholars during the end of the Middle Ages. Reynolds, *How Marriage Became One of the Sacraments*, 3, 148; Reynolds, “Marriage”; and Reynolds, *Marriage in the Western Church*, 65.

<sup>153</sup> The major writings of Augustine on marriage were likely available to the public, particularly from the 12<sup>th</sup> to 15<sup>th</sup> century. Reynolds, “Marriage”; and Reynolds, *Marriage in the Western Church*, 42-43, 65.

<sup>154</sup> Barton, “Kinship, Marriage and Family,” 3; and Reynolds, *Marriage in the Western Church*, xv.

accepted by the Latin Fathers, conflicted with the ecclesiastical position on the dissolution of divorce, which the civil courts allowed between partners by mutual agreement.<sup>155</sup> The church would only allow spouses to divorce if either partner was an adulterer or if both mutually agreed to separate to henceforth live as celibate.<sup>156</sup> If a spouse was no longer content in their marriage union or looked for sexual gratification outside of the marriage bond, members of the Western church would intervene and attempt to reconcile the relationship, stressing the importance of fidelity and permanence.<sup>157</sup>

The considerable difference between the marriage views of the Latin Fathers and the civil law of the Roman Empire would eventually result in bishops and churchmen insisting that the Western church be given their own separate matrimonial jurisdiction (*matrimonium iustum*) in the form of an ecclesiastical law and the right to set legal requirements within the divine law (*lex divina*) of the Scripture, or the law of God.<sup>158</sup> The *lex divina* was considered unique to the Christian community, who closely followed the teachings of Jesus and Paul, while all non-Christians were perceived as instead adhering to the human law (*lex humana*), or the civil law.<sup>159</sup> In contracting a marriage union, Christian spouses were understood to be actively participating in the *lex divina*.<sup>160</sup> Marriage was also understood to exist for the sake of having and raising children in a lifelong mutual partnership, as per the natural law.<sup>161</sup> The *matrimonium iustum* of the church, therefore, complied with the natural law in tandem with the *lex divina*.<sup>162</sup> The legal authority of the church would eventually be increased after Constantine made Christianity the official religion of the Roman Empire at the end of the fourth century, and by the fifth century a distinction had been firmly established between the *lex divina* of the Christian church and the *lex humana* of non-Christians.<sup>163</sup>

Despite the increase in authority, there were few occasions where Christian or ecclesiastical law, which was still in an early stage of development, could overrule the civil laws on marriage.<sup>164</sup> The episcopal courts likely turned to the civil law and its jurists in most cases, who only applied ecclesiastical law when it was considered particularly relevant, and so the

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<sup>155</sup> Reynolds, *Marriage in the Western Church*, 129.

<sup>156</sup> Annulment was possible under certain marital impediments. Chrysostom, *On Marriage and Family Life*, 13; and Reynolds, *Marriage in the Western Church*, 150, 224.

<sup>157</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 49.

<sup>158</sup> The Western church carefully distinguished ecclesiastical law from the *lex divina*, the latter being considered unchangeable. The church and its followers, who worked under the jurisdiction of ecclesiastical law, were understood to be capable of interpreting and enacting authoritative rule of the *lex divina*, could make additions to the law, or remove added laws. Reynolds, *Marriage in the Western Church*, xvii, 150.

<sup>159</sup> The Latin Fathers considered the church as the legislative power for the *lex divina*, and so, in turn, the law of the church was also the law of God. The distinction of the *lex divina* from the *lex humana* between the church and state was a purely theological separation, rather than a sociological separation. Reynolds, *Marriage in the Western Church*, xv, 142.

<sup>160</sup> Gifford Andrew Grobien, "Marriage and So-Called Civil Unions in Light of Natural Law," *Concordia Theological Quarterly* 77, no. 3 (Fall 2013): 259.

<sup>161</sup> The natural law tradition believes that procreation, companionship, and permanence are not mutually exclusive but are intrinsic to a proper marriage. This understanding of the natural law would also appear in Roman legislation. Grobien, "Marriage and So-Called Civil Unions in Light of Natural Law," 266-267; and Reynolds, *Marriage in the Western Church*, 8, 15.

<sup>162</sup> Grobien, "Marriage and So-Called Civil Unions in Light of Natural Law," 258, 266, 270; and Reynolds, *Marriage in the Western Church*, 8.

<sup>163</sup> The legal distinction made by the Latin Fathers was a theological separation between the church and state as opposed to a sociological separation. Reynolds, *Marriage in the Western Church*, xv, xvii, xxviii, 121, 224.

<sup>164</sup> The church probably relied on decisions by both bishops and Roman councils during this time. Reynolds, *Marriage in the Western Church*, 146.



Roman Empire remained a secular society for many centuries.<sup>165</sup> The Roman state continued to govern marriage practices and legislated for the church, but a noticeable effort was made by the Christian emperors to bring Christian teachings into the Roman law.<sup>166</sup> Many of the Christian emperors instituted stricter laws on divorce during their reign, merging ecclesiastical norms with the secular law, with Constantine being the first Roman emperor to place certain restrictions on divorce and whose support would be conducive to the early medieval church gaining power and jurisdiction alongside the civil law.<sup>167</sup> The Latin Fathers would continue to assert and reinforce the Christian moral norms of marriage formation, divorce laws, and sexual conduct against the validity of the civil law, or the *lex humana*, throughout the early Middle Ages, insisting that the marriage laws of the Roman Empire needed reformation.<sup>168</sup> The civil jurisdiction gradually shifted to ecclesiastical jurisdiction until marriage had become fully Christianized, and by the High Middle Ages, during the Gregorian Reforms (1073-1085) initiated by Pope Gregory VII (1020-1085), the civil law became the subordinate legal system to the ecclesiastical law and the church was able to oversee the marriage process of newlyweds, validate contracts, and verify the union for any marital impediments.<sup>169</sup>

### *The Sacramental Model of Marriage*

With the Papal revolution of Pope Gregory VII and the establishment of the Catholic church as having autonomous jurisdiction over marriage procedures, the early patristic thoughts on marriage began to develop into a systematic marriage theology and doctrine throughout the eleventh to the thirteenth centuries in the form of the sacramental marriage model.<sup>170</sup> A theology of marriage as one of the seven sacraments mostly stems from late medieval exegesis and scholarship on the New Testament, particularly the Ephesian text (5: 22-33), in the form of sentential literature, most notably in the writings of Hugh of Saint Victor (1096-1141) and Peter Lombard (1100-1160).<sup>171</sup> Theologians prior to the year 1100 understood *sacramentum* with divergent yet analogous meaning, most often called ‘mysteries’ or rites within the church.<sup>172</sup> A

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<sup>165</sup> Reynolds, *Marriage in the Western Church*, xix, 146.

<sup>166</sup> Reynolds, *Marriage in the Western Church*, 62.

<sup>167</sup> The strict divorce laws instituted by emperors was not only to bring the civil law closer to ecclesiastical law, but to also make divorce more difficult for the sake of any children born from a marriage union. Many of the Roman emperors, however, would allow divorce with the option to remarry for men from the fourth century until the High Middle Ages. This inequality was eventually contested by bishops and churchmen but would have been too ingrained in Roman culture to be altered, even by the Western church, at the time. Reynolds, *Marriage in the Western Church*, 62, 64, 125 145, 176.

<sup>168</sup> Witte, Jr., *From Sacrament to Contract*, 19, 20, 22.

<sup>169</sup> Reynolds, *How Marriage Became One of the Sacraments*, 48; and Witte, Jr., *From Sacrament to Contract*, 23.

<sup>170</sup> Reynolds, *How Marriage Became One of the Sacraments*, 16-18, 33; Reynolds, *Marriage in the Western Church*, 63; and Witte, Jr., *From Sacrament to Contract*, 22-23.

<sup>171</sup> Theological discourse and doctrine had considered marriage to be fundamentally sacramental to varying degrees after Augustine; however, most nuptial readings prior to the eleventh century would allude to or quote the Old Testament and the primordial marriage to demonstrate how marriage was a holy institution, with only some referring to the New Testament and Jesus’ affirmation of marriage as forming a single unit (*Matt 19: 5-6*; and *Mark 10: 7-9*). Augustine’s theology of marriage would be integrated into Catholic marriage theology throughout the twelfth century starting in the year 1120 with the writings of Hugh of Saint Victor. Bainton, *What Christianity Says About Sex, Love and Marriage*, 17, 21; Reynolds, “Marriage”; and Reynolds, *How Marriage Became One of the Sacraments*, 53, 62, 405.

<sup>172</sup> Reynolds, *How Marriage Became One of the Sacraments*, 21.

sacrament was understood to be a ‘sacred sign’ (*sacrum signum*) or ‘sign of a sacred thing’ (*signum sacrae rei*) which granted its own unique grace, and was further considered to be an ‘outward, and visible’ modes for Christians to encounter or bond with God and the Incarnation under the new covenant.<sup>173</sup> Each of the sacraments are believed to call a person to action towards the Christian way of living; and as such, receiving and undertaking the sacraments is what makes someone a Christian.<sup>174</sup> Participation in the seven sacraments was further understood to realize the character of Christ in the life of a Christian, where God effectively works through the Incarnation for our salvation.<sup>175</sup>

While marriage had commonly been interpreted by Christian as a holy vocation, marriage as a sacrament in accordance with the New Law was a relatively novel idea.<sup>176</sup> As a ‘certain sacramental bond’ (*quoddam sacramentum*), marriage was understood as a *sacrum signum*, supported by Christ when he blessed and performed his first miracle at a wedding ceremony (*John 2: 11*), and because a marriage union was accepted as a living symbol of the union between Christ and the church (*Eph 5: 32*).<sup>177</sup> As a sacred sign of the enduring bond of Christ to the church, marriage was ‘ipso facto’ rightly indissoluble.<sup>178</sup> The principles which became fundamental to sacramental marriage theology were those established in the teachings of Augustine, who related the permanence of marriage to the ‘good of sacrament’ (*bonum sacramenti*).<sup>179</sup> As a sacrament, marriage was considered to be subject to the canon law and jurisdiction of the church; however, only Christian spouses would be sanctified and transformed by the sacrament of marriage.<sup>180</sup> In conferring sacramentality to marriage, the lingering stigma of sexual sin associated to the bond of marriage was also relieved and further promoted childbirth between Christian spouses, which was beneficial to the church, and further weaved together centuries of medieval scholarship and theological reflections on marriage discourse.<sup>181</sup> There was no consensus, however, as to when a marriage would receive the sacrament of Christ and the church, with some scholars arguing that it was at the time of betrothal, some stating that it was graced by the Priest in marriage, or that it occurred during the act of sexual consummation.<sup>182</sup>

The church gained complete legal authority over all marriage procedures in the Roman Empire at the start of the twelfth century.<sup>183</sup> By the thirteenth century, theologians had further

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<sup>173</sup> The theory of sacred signs developed by medieval theologians was based on the thoughts of Augustine in his *De Doctrina Christiana*. Augustine had described a sign as a thing (*res*) which presents itself as significant to the human mind and senses. Every sign, therefore, is a thing in essence, but not all things are considered signs. Davison, *Why Sacraments*, 5, 8, 23; and Reynolds, *How Marriage Became One of the Sacraments*, 3, 29, 54.

<sup>174</sup> Davison, *Why Sacraments*, 24.

<sup>175</sup> Davison, *Why Sacraments*, 1, 5, 24; and Reynolds, *How Marriage Became One of the Sacraments*, 3.

<sup>176</sup> Reynolds, *How Marriage Became One of the Sacraments*, 1.

<sup>177</sup> Davison, *Why Sacraments*, 23-24; Reynolds, *How Marriage Became One of the Sacraments*, 29, 62; and Witte, Jr., *From Sacrament to Contract*, 22.

<sup>178</sup> Reynolds, *How Marriage Became One of the Sacraments*, 69-71.

<sup>179</sup> Marriage theology was mostly discussed by scholastic theologians, and, in turn, many sacramental doctrines were suggested at the time. Reynolds, *How Marriage Became One of the Sacraments*, xxv, 29, 101.

<sup>180</sup> Reynolds, *How Marriage Became One of the Sacraments*, 33, 40; and Witte, Jr., *From Sacrament to Contract*, 27.

<sup>181</sup> Witte, Jr., *From Sacrament to Contract*, 29-30.

<sup>182</sup> The principle of *consensus* did not suggest that there was nothing else required for a permanent and fully established marriage (*matrimonium ratum*), but only that a marriage union was valid. What made a marriage official, however, became connected to the moment a marriage was graced in the High Middle Ages. Most theories on when a marriage received sanctifying grace was based on the writings of Augustine and Pope Leo I, and often misquoted. Reynolds, *How Marriage Became One of the Sacraments*, 209.

<sup>183</sup> Reynolds, *How Marriage Became One of the Sacraments*, 38.

developed the sacramental model of marriage beyond the approach of Augustine and the early church fathers; that is, whereas early medieval sacramental theology sought to establish a form of symbolic stability between marriage and Christianity, or Christ and the church, the thirteenth century authors also sought to emphasize the inherent spiritual value of marriage as a permanent sacramental bond and holy way of living.<sup>184</sup> In time, marriage was considered by bishops and churchmen to be a sacrament of the New Law, the law of the New Testament as opposed to the Old Law of the Old Testament, and that the sacrament of marriage concerned the act of marrying during the wedding vows, preferably held *in facie ecclesiae*, as opposed to being a condition of a marriage union.<sup>185</sup> As the Western church's doctrine was formalized throughout the end of the Middle Ages, marriage had effectively been given a natural purpose, a legal structure, and a spiritual significance for any and all participants.<sup>186</sup> The sacramental model of marriage remains the most notable contribution to Western culture by Augustine and the early church fathers, as well as late medieval theologians and canonists, and would develop into the normative Western marriage tradition throughout modernity.<sup>187</sup>

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<sup>184</sup> Witte, Jr., *From Sacrament to Contract*, 29.

<sup>185</sup> Reynolds, *How Marriage Became One of the Sacraments*, 1, 18, 29.

<sup>186</sup> Medieval scholarship continued to develop throughout the fourteenth century; however, laws and regulations on marriage formation remained the same up until the fifteenth century. Barton, "Kinship, Marriage and Family," 11; and Reynolds, *How Marriage Became One of the Sacraments*, xxvii.

<sup>187</sup> Reynolds, *How Marriage Became One of the Sacraments*, xxv.

## Chapter Two

### Christian Marriage in the Modern Age and the Secular Contemporary World (from the 16<sup>th</sup> century to the present day)

#### *The Council of Trent*

Catholic canon laws and sacramental theology had become the chief legislation governing marriage procedures in the Western world by the sixteenth century.<sup>188</sup> Catholic teaching maintained that marriage, as a sacrament, was an eternal bond which remained existent even in the case of separation and, as such, divorced couples were not permitted to remarry.<sup>189</sup> The view of marriage as a sacrament, however, was not universally accepted by all Christians, and many of the sacramental notions upheld by Catholic church doctrine and jurisdiction were protested by Christian reform groups, most notably by those who became known as the Protestant reformers.<sup>190</sup> From the year 1517 on, the Protestant reformers aimed to return to some form of the civil laws on marriage which had existed for centuries before the Catholic church had acquired legal authority over marriage in the late Middle Ages, suggesting a new model of marriage as social estate.<sup>191</sup> The Protestant reformers largely attacked the Scriptural foundations of Catholic church doctrine and the sacramental theology on marriage, especially arguments which had been premised on the Ephesian text (5: 32) confirming marriage as a sacrament, and instead insisted that there was no philological proof that a marriage union was an everlasting bond.<sup>192</sup> Dutch philosopher and theologian Desiderius Erasmus (1466-1536) and German theologian Martin Luther (1483-1546) were key exponents in the Reformation era, actively criticizing and challenging the sacramental foundations of the doctrine established by the church.<sup>193</sup>

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<sup>188</sup> John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville: Westminster John Knox, 2012): 4, 42.

<sup>189</sup> Witte, Jr., *From Sacrament to Contract*, 6.

<sup>190</sup> German Catholic reformers had attempted to challenge the Catholic church during the late Middle Ages and succeeded in inspiring several other reform movements. The Protestant reformers, however, would exceed the other reform groups in their attacks against the church canon laws and sacramental theology. Witte, Jr., *From Sacrament to Contract*, 42, 48.

<sup>191</sup> With the goal of preserving the social well-being of marriage and the family, the model of marriage as social estate required the mutual consent of the couple with witness participation, reduced the number of restrictions for marriage formations, would proceed through a civil marriage registry with church consecration, and allowed for fault-based divorce with the legal right to remarry. The new civil model also reappropriated the Augustinian principle of marriage as a means of controlling sexual desire. Roland H. Bainton, *What Christianity Says About Sex, Love and Marriage*, (New York: Association Press, 1957): 83; Stephen C. Barton, "Kinship, Marriage and Family: Learning from Tradition," *Colloquium* 50, no 2 (Winter 2018): 14; and Philip L. Reynolds, *How Marriage Became One of the Sacraments: The Sacramental Theology of Marriage from its Medieval Origins to the Council of Trent* (Cambridge: Cambridge University Press, 2018): 4, 7, 44, 56.

<sup>192</sup> The Protestant reformers further accused the church of inappropriately instituting their own thoughts on 'divorce' (*divortium*) to underpin the sacramental view of marriage which prohibited remarriage. The Protestant reformers argued that the term *divortium* meant the dissolution of marriage, while the Catholic church asserted it meant separation. Witte, Jr., *From Sacrament to Contract*, 66.

<sup>193</sup> Erasmus and Luther both challenged the hermeneutical basis of Catholic doctrine, which relied on Ephesians (5: 32) as textual evidence for the sacramental view of marriage. Erasmus argued that the medieval theologians intended the sacrament or mystery of marriage in Ephesians to signify the image of Christ and the church as opposed to the married couple. He also argued that marriage is not a sacrament since non-Christians and even heathens can marry, and that Christians who refer to Ephesians as evidence of the indissolubility of marriage as a

In direct response to the attacks on the prevailing Catholic law and jurisdiction from the Protestant reformers, Counter-Reformation theologians and the Catholic church held an ecumenical council to defend the sacramental view of marriage which had become firmly engrained in Catholic faith and practice.<sup>194</sup> The ecumenical council, also known as the Council of Trent, sought to clarify and solidify church doctrine as absolute, to condemn groups or individuals who criticized Catholic canon laws and to establish any opposition to the Catholic church as heretics and schismatics.<sup>195</sup> The marriage doctrine of the Catholic church was deemed a dogma of faith at Session XXIV of Trent in 1563 in a published decree on the sacrament of marriage.<sup>196</sup> The prelates at Trent confirmed marriage as ‘truly and properly’ (*vere et proprie*) one of the seven sacraments of the New Law as instituted by Christ, conferring sanctifying grace (*ex opere operato*) and therefore necessary for salvation.<sup>197</sup> The decree *Tatmetsi* at Session XXIV of Trent systematized the sacramental model of marriage of the Middle Ages, wherein marriage was understood as subject to the natural law, an agreement formed with mutual consent, and was a sacrament as created by God and conferred by Christ.<sup>198</sup> *Tatmetsi* further declared that marriage, as a sacrament of the New Law, was subject to modern Catholic canon law and ecclesiastical jurisdiction.<sup>199</sup> The Council of Trent would eventually commission the Roman Catechism in 1566, a compendium of the Catholic instructions on the seven sacraments, which included a refined synthesis of the sacramental marriage model for the public summarizing marriage as the ‘conjugal union of man and woman, contracted between two qualified persons, which obliges them to live together throughout life’.<sup>200</sup> The married couple were considered the ministers of the sacrament of marriage; however, any marriage that was not joined by a priest or in the presence

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sacrament have misconstrued the text. Luther argued the same points as Erasmus, but also maintained that marriage was a human invention which should not fall under ecclesiastical jurisdiction. He further argued that marriage is not a lesser path than celibacy but a personal choice without consequences related to salvation, and that conferring sacramental grace to marriage distorted the Christian faith. Barton, “Kinship, Marriage and Family,” 14; and Reynolds, *How Marriage Became One of the Sacraments*, 78, 727, 730-731, 736, 738, 742, 747-748.

<sup>194</sup> The Counter-Reformation theologians and prelates reinvigorated exegesis on the Ephesian text and Paul’s marriage discourse (5: 22-33), arguing that married Christians, supported by God’s grace, were to emulate the love found within the union between Christ and the church, something Luther had not addressed in his comments against the use of Ephesians as a proof text. Reynolds, *How Marriage Became One of the Sacraments*, 79, 84, 727.

<sup>195</sup> Reynolds, *How Marriage Became One of the Sacraments*, 727.

<sup>196</sup> The decree on marriage included a preface on the marriage doctrine, twelve canon laws, and ten chapters on marriage reformation (*super reformatione*). Discourse on the two marriage verses in Ephesians appears in the preface. Reynolds, *How Marriage Became One of the Sacraments*, xxv, 1, 79, 727, 845-846.

<sup>197</sup> Along with arguments made by exegetical theologians who referred to several biblical texts to defend the salvific nature of marriage, Catholic Christians also turned to authority figures within the church to demonstrate the legitimacy of the sacramental doctrine of marriage. The official statements that acknowledged the doctrine included ‘Pope Lucius III’s *Ad abolendam* (1184); the profession of faith that Pope Innocent III sent to the bishops of the Vaudois for the Waldensians in 1208 (Section 14.1); the *Profession of Faith of Michael Palaeologus* from the Second Council of Lyons (1274); and *The Bull of Union with the Armenians* from the Council of Florence (1439)’. The statements do not explicitly declare marriage as a sacrament. Reynolds, *How Marriage Became One of the Sacraments*, 2-3, 79, 727-728.

<sup>198</sup> Witte, Jr., *From Sacrament to Contract*, 23, 25-26, 37.

<sup>199</sup> The Modern Catholic canon law continued to reinforce the Augustinian principles supported during the medieval period, placing greater emphasis on the indissolubility of marriage as a sacrament and regarded any marriage union where neither of the spouses were Christian to not confer sacramental grace. Charles J. Reid, Jr., “The Augustinian Goods of Marriage: The Disappearing Cornerstone of the American Law of Marriage,” *Brigham Young University Journal of Public Law* 18, no. 2 (Summer 2003): 449; and Reynolds, *How Marriage Became One of the Sacraments*, xxi, 33.

<sup>200</sup> The Catechism also specified that consummation was an expectation but not a requirement in a marriage union. Witte, Jr., *From Sacrament to Contract*, 39-40.

of sufficient witnesses would be considered illegitimate and annulled.<sup>201</sup> Tametsi and the Catechism had effectively provided the Catholic church with a means of controlling marriages in Western Christendom, and while many Christians complied with the new marriage laws, it would be erroneous to state that the doctrine made people or families happier, and so the Protestant reformers continued to challenge the Catholic church thereafter.<sup>202</sup>

### *Marriage In Reformation*

With the establishment of Protestantism and its new civil marriage gospel, marriage in the Western world became a sort of ‘litmus test’ for social reformation during the sixteenth century onward.<sup>203</sup> New theological discourse on civil marriage formation and dissolution was developed from the emerging thoughts of Protestant sects, philosophical theologians, and political leaders in reaction to the flourishing position of the Catholic church and its legal jurisdiction on marriage.<sup>204</sup> The through-line of proposals for marital reform was that marriage was to be considered both a civil and an ecclesial institute; therefore, the authority of the Catholic church in the legal marriage process needed to be reduced.<sup>205</sup> Other Protestant models of marriage had already replaced the Catholic sacramental model of marriage in parts of Western Europe by the mid-sixteenth century, notably the Calvinist covenantal marriage model and the Anglican commonwealth model of marriage established in Geneva and England, respectively, wherein marriage was seen as both a civil and ecclesiastical institution.<sup>206</sup> Each of these Protestant reforms aimed to rectify the misconstruction of proper marriage practice enforced by the Catholic church while sustaining some of the fundamentals of Christian marriage with some amendments to the treatment of marriage as a sacrament and divorce laws.<sup>207</sup> Charles J. Reid, Jr., offers a summary of how each of the Protestant reforms treated some of the basic principle of the Augustinian goods of marriage:

[...] Lutheran and Calvinist reformers of the sixteenth century deepened the Augustinian goods by, for instance, connecting the faithfulness demanded in marriage with the protection marriage

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<sup>201</sup> The process of marriage involved the priest stating the impediments and solemnizing the union in front of two witnesses. The presence of a priest and witnesses was not a condition of validity in the decree. The process was simply considered part of proper marriage practice, and to not be married by a priest was seen as sacrilege. Reynolds, *How Marriage Became One of the Sacraments*, 50, 982; and Witte, Jr., *From Sacrament to Contract*, 26.

<sup>202</sup> Reynolds, *How Marriage Became One of the Sacraments*, 63; and Witte, Jr., *From Sacrament to Contract*, 41.

<sup>203</sup> Barton, “Kinship, Marriage and Family,” 13; and Witte, Jr., *From Sacrament to Contract*, 43.

<sup>204</sup> The Lutheran civil model of marriage was supported in every Protestant community. Many Protestants would marry in accordance with the new civil law of marriage in open defiance of the canon laws and jurisdiction of the Catholic church, despite prosecution from the church courts. Witte, Jr., *From Sacrament to Contract*, 7, 43.

<sup>205</sup> Don S. Browning, *Marriage and Modernization: How Globalization Threatens Marriage and What to Do About It* (Grand Rapids: Eerdmans, 2003): 23; and Witte, Jr., *From Sacrament to Contract*, 43.

<sup>206</sup> Calvinism, as formed by John Calvin and his followers, primarily saw marriage as a ‘covenantal association’ shared between both the civil and the ecclesial society rather than a ‘sacramental institution’ limited to the church. Marriage, in accordance with the commandment of God and the creation, was still viewed as a lifelong, mutual union between a man and a woman for the sake of raising children in the Calvinist tradition. Anglicans and the church of England saw marriage as a domestic ‘little commonwealth’ appointed by God for the sake of lifelong mutual love, security, and service among families. Marriage, as an institution that was divine, civil, and a covenant all at once, was a common good designed to reinforce knowledge of the Christian faith to both the church and the state. Barton, “Kinship, Marriage and Family,” 16; and Witte, Jr., *From Sacrament to Contract*, 7-9, 43-44.

<sup>207</sup> Reid, Jr., “The Augustinian Goods of Marriage,” 449, 456-457.

offered from sexual sins. In other respects, however, these Protestant reformers moved away from the Augustinian goods, particularly on the subject of the indissolubility of the marital union. Marriage, although a sanctified form of life and a holy estate, was not to be counted among the sacraments [...] But even if Anglican theology no longer retained marriage as one of the sacraments [...] the structure of Anglican marriage law was fundamentally shaped by the Augustinian goods [...] The retention of the Augustinian goods of marriage as the basic framework for analyzing marriage issues was especially evident in the treatment the law accorded divorce.<sup>208</sup>

These Protestant reforms had also acknowledged and reappropriated some of the traditional Catholic canon laws into their civil common laws.<sup>209</sup> It was during this period that natural law theory was shaped into a systematized moral philosophy, in part by Dutch humanist Hugo Grotius (1583-1645), accessible to all individuals, untethered from Scriptural preconceptions but still operating within the divine law.<sup>210</sup> The most influential Protestant writers would be the English author John Milton (1608-1674) and the English philosopher John Locke (1632-1704), who wrote about marriage dissolution and marriage formation, respectively, during the seventeenth century, and both would later be credited with anticipating the marital changes during the Age of Enlightenment.<sup>211</sup>

With the advent of the Enlightenment in the late seventeenth century came a long period of exhaustive ideological academic discourse across disciplines and social contexts, particularly in Western Europe and eventually North America as well.<sup>212</sup> In a move to refine the other conceived marriage models, Enlightenment thinkers in the eighteenth century put forward a new dispensation of marriage towards ‘human happiness and welfare’ based on nationalism, libertarianism, deism, and humanism.<sup>213</sup> Enlightenment theology instead developed a doctrine of individualism, wherein people were created with equal rights to property, living, and freedom, and could further organize themselves privately within the moral and public standards of society.<sup>214</sup> God, the Scripture, the church, and the state, in turn, played no role in the formation or function of a marital bond, and the terms of the marriage were to be established by the couple within the civil norms of society.<sup>215</sup> At the end of the eighteenth century, English Revolutions

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<sup>208</sup> Reid, Jr., “The Augustinian Goods of Marriage,” 456-457.

<sup>209</sup> Witte, Jr., *From Sacrament to Contract*, 44.

<sup>210</sup> Modern natural law theory argued that humans, as rational and social beings, should act upon a propensity towards mutual goodness. The new natural law theory was developed in response to the religious wars affecting the political societies at the time. Gifford Andrew Grobien, “Marriage and So-Called Civil Unions in Light of Natural Law,” *Concordia Theological Quarterly* 77, no. 3 (Fall 2013): 258; and Charles Taylor, *A Secular Age* (Cambridge: Belknap Press, 2018): 159-163.

<sup>211</sup> Milton firmly believed that a ‘failed English marriage’, wherein the spouses lack similar tastes and interests, should be soluble and the couples free to marry again, further arguing that the primary command of God in our creation was ‘it is not good for man to be alone (*Gen 2: 18*) rather than ‘be fruitful and multiply’ (*Gen 1: 28*). Locke believed that a marital union should be voluntarily contracted, sustained, and dissolved by the couple; however, if children were involved then the spouses had a natural obligation to remain joined together until their offspring were self-sufficient. Without a ‘communion of interest’ to sustain the marriage, such as children, the spouses should be free to separate and seek remarriage. Bainton, *What Christianity Says About Sex, Love and Marriage*, 99-101; and Witte, Jr., *From Sacrament to Contract*, 179, 181, 186, 188, 191.

<sup>212</sup> Witte, Jr., *From Sacrament to Contract*, 198.

<sup>213</sup> Taylor, *A Secular Age*, 245; and Witte, Jr., *From Sacrament to Contract*, 10, 197, 208.

<sup>214</sup> Witte, Jr., *From Sacrament to Contract*, 197.

<sup>215</sup> Enlightenment theologians understood God to have created the world to be self-governing and self-sufficient, only sometimes appearing in the form of a miracle or ‘force majeure’. Witte, Jr., *From Sacrament to Contract*, 10, 197.

such as the Revolutionary War brought inevitable changes to the traditional family dynamic, particularly for the wives who lost husbands in battle and, in turn, were tasked with more familial responsibility, leading English authors to suggest a plethora of new legal and scholarly views, in conjunction with Enlightenment thought, supporting more progressive cultural changes for modern families as alternatives to both the Catholic and Protestant moral traditions.<sup>216</sup>

### *The Privatization of Marriage and the Modern Family*

The sacramental model sustained by the Catholic church, as well as the aforementioned Protestant marriage models, began to be superseded by ‘a new privatist concept’ of marriage heavily inspired by Enlightenment thought, wherein only the resolve of the spouses was to manage the marriage union.<sup>217</sup> By the nineteenth century, advocates for the Enlightenment gospel, most notably championed by politician and libertarian philosopher John Stuart Mill (1806-1873), came to stress the moral welfare of a contractarian model of marriage in an effort to reform traditional Western marriage law.<sup>218</sup> In his book on the development of the different marriage models throughout the Modern Age, John Witte, Jr. encapsulates the trajectory of marriage law in Latin Christendom to modernity as a reactionary evolution from the sacramental concept of the late Middle Ages to the private demands of the Enlightenment period:

This is the grand movement of Western marriage law in the course of the past millennium. It is a movement “from sacrament to contract” – from a sacramental model that prioritizes canonical norms and ecclesiastical structures to a contractarian model that prioritizes private choice and contractual structures [...] fueled, in part, by the reciprocating shifts in the dominant theological models and legal structures of marriage.<sup>219</sup>

The contractarian marriage model considered marriage formation to be a voluntary contractual agreement between the couple seeking an intimate union under the common law, who could marry without parental consent or witnesses, and dissolve the union as desired.<sup>220</sup> The goal at the time, however, was not to repudiate the foundational values of Western traditional marriages but to instead foster more equalitarian virtues in modern marriages and families, especially for women and children.<sup>221</sup> The Enlightenment reformers continued to accept the classic view that marriage was a consensual, permanent union between a man and woman, further stressing the goods of procreation and mutual fidelity; however, the reformers aimed to change traditional patriarchal structures and the prudish climate in favor of a moral standard fit for all individuals.<sup>222</sup> This new understanding of gender relations within marriage and the family was

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<sup>216</sup> Women developed greater independence and welfare during the war, gaining inheritances and work opportunities on personal farms or with a family business, as well as literacy skills by reading on their own or to their children. Browning, *Marriage and Modernization*, 33-34, 132; and Witte, Jr., *From Sacrament to Contract*, 177-178.

<sup>217</sup> Witte, Jr., *From Sacrament to Contract*, 11, 208.

<sup>218</sup> Mill advocated for the contractual gospel of marriage against the traditional marriage laws in Victorian England after marrying his wife Harriet Taylor in 1851, who influenced and reinforced his stance on equal rights within a union, including rights to property, workplace benefits, divorce, and remarriage. He also insisted that fathers should be more involved in the childrearing process. Witte, Jr., *From Sacrament to Contract*, 198, 201-202, 208.

<sup>219</sup> Witte, Jr., *From Sacrament to Contract*, 12.

<sup>220</sup> Witte, Jr., *From Sacrament to Contract*, 10.

<sup>221</sup> Husbands could easily file for divorce within the matrimonial jurisdiction of the church at the time. Witte, Jr., *From Sacrament to Contract*, 202.

<sup>222</sup> Witte, Jr., *From Sacrament to Contract*, 202, 208.



partly in response to the modernizing changes in the social economy during the religious wars.<sup>223</sup> Many of the contractual revisions to marriage formation and law demanded by the Enlightenment reformers were overall accepted as beneficial to society and the family among individuals within each of the Christian communities throughout the Western world; however, legal changes to divorce and remarriage laws was an ongoing point of contention.<sup>224</sup>

From the 1830s onwards, several marriage and family reforms were passed in connection to divorce, alimony, prenuptials, property, paternal abuse, and custody under the English common law.<sup>225</sup> The Parliament of the United Kingdom eventually passed the Matrimonial Causes Act in 1857, reforming three components of traditional English marriage law: (1) matrimonial jurisdiction was to be transferred from the church to the common law courts, (2) spouses could file for fault-based divorce privately with the right to remarry granted to the innocent spouse, and (3) the common law courts were to decide the legal custody of any children based on their best interest and care.<sup>226</sup> While legal authority over marriage and family laws had been transferred to the civil courts as opposed to the church by the mid-nineteenth century, families could still choose to recognize the marriage practices and doctrine of their respective religious community.<sup>227</sup> A similar legal transformation had been occurring in North America as well, wherein marriage contracts were becoming easier to contract and dissolve with proof of fault, wives had more independence and working opportunities outside of the home, and women and children were granted greater benefits as well as paternal legal protection, particularly in cases of abuse.<sup>228</sup> Marriage was no longer accepted as sacramental in the legal sense.<sup>229</sup> The Augustinian goods of marriage still held legal prominence in Western courts, with the natural law forming the basis of matrimonial law in North America.<sup>230</sup> The good of sacrament was now commonly referred to as the good of marital permanence, with some legal courts openly dismissing the dogma of the Catholic church with regards to the sacrament of marriage.<sup>231</sup> With nonbelief and irreligion rising at an exponential rate in Western Christendom during the mid-nineteenth century, as well as scientific advancements and alternatives to faith gaining increasing validity, however, people began to rely more and more on essentially human values rather than spiritual ones.<sup>232</sup>

The contractarian marriage model would eventually become the impetus for major Western legal marriage reforms under the dictum ‘separation of church and state’, particularly at the turn of the twentieth century.<sup>233</sup> Western modernity had sometimes been associated with

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<sup>223</sup> Browning, *Marriage and Modernization*, 34.

<sup>224</sup> Witte, Jr., *From Sacrament to Contract*, 208.

<sup>225</sup> Witte, Jr., *From Sacrament to Contract*, 202.

<sup>226</sup> The Married Women’s Property Acts passed and revised in 1870, 1874, and 1882 in time released women and wives from the traditional hierarchal structures of the marriage bond and had given them more rights to own property. Latter amendments to the Matrimonial Causes Act in 1923 and 1937 would reform the acceptable grounds for divorce and the ease with which spouses seek separation. Witte, Jr., *From Sacrament to Contract*, 204-207.

<sup>227</sup> Witte, Jr., *From Sacrament to Contract*, 208.

<sup>228</sup> Witte, Jr., *From Sacrament to Contract*, 207.

<sup>229</sup> Reid, Jr., “The Augustinian Goods of Marriage,” 466.

<sup>230</sup> The procreative nature of a marriage between a man and a woman was a common feature in legal cases concerning marriage formation at the time, particularly in cases against homosexual unions. Reid, Jr., “The Augustinian Goods of Marriage,” 462-463.

<sup>231</sup> The good of fidelity was often brought up in conjunction with the good of marital permanence. Reid, Jr., “The Augustinian Goods of Marriage,” 465-466, 470.

<sup>232</sup> Taylor, *A Secular Age*, 77, 267, 322.

<sup>233</sup> North America was a mostly Protestant nation at the time. As such, many Catholic Citizens saw the move towards separation instead as a ‘de facto’ establishment and acceptance of Protestantism throughout the country.

secularization during the Protestant Reformation and the rise of religious pluralism, but gained greater traction and attention through the Enlightenment gospel.<sup>234</sup> The classic Catholic and Protestant marriage models had remained the dominant structures in the Western world throughout the Modern Age, especially in North America and England, each adhering closely to the Augustinian principles, albeit with some select differences; however, the twentieth century brought forth fully developed alternatives to the traditional conception of marriage and the family.<sup>235</sup> Liberal Protestants criticized the Catholic moral tradition of natural law as ‘too static’ against the dynamism of the modern family.<sup>236</sup> Sexual desire in the form of fulfillment and self-love was now considered natural to human nature as opposed to sinful.<sup>237</sup> The Catholic church sustained its traditional doctrine of marriage; however, legal texts and statements on doctrine began to treat the first Augustinian good of marriage, procreation, as the primary good of marriage as opposed to the third good of sacrament, with greater stress on the prohibitions against abortion and contraception.<sup>238</sup> While separationist policies had developed throughout the entirety of the Enlightenment and late Modern Age, it is only during the period after the Second World War, at the start of the Contemporary Era and during the post-modern period, that we begin to see secular marriage culture and ethics as it exists today.<sup>239</sup>

### *The Secularization of Marriage*

The contemporary age brought about the secularization of traditional marriage in various forms throughout the Western world, as well as a prevalent deviation from classical Christian views and values.<sup>240</sup> Although scholars often attribute the Protestant reformation to the start of secularization, the actual genesis of ‘American secularism’ is lacking in research.<sup>241</sup> The term ‘secular’ originates from the Latin word *saeculum*, meaning an age, century, or an extended period roughly equivalent to a lifetime.<sup>242</sup> Within Latin Christendom specifically, *saeculum* was used to juxtapose the ‘temporal’ affairs of humans, which was usually measured in an age, with

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Barton, “Kinship, Marriage and Family,” 13; Jacques Berlinerblau, *How To Be Secular: A Call to Arms For Religious Freedom* (Boston: Houghton Mifflin Harcourt, 2012): 30; and Witte, Jr., *From Sacrament to Contract*, 11, 198.

<sup>234</sup> Berlinerblau, *How To Be Secular*, xviii, xxvii; and Taylor, *A Secular Age*, 21-22.

<sup>235</sup> Taylor, *A Secular Age*, 28; and Witte, Jr., *From Sacrament to Contract*, 194.

<sup>236</sup> Liberal Protestants also criticized classic Protestant moral arguments based on the creation narrative. The Christian fundamentalist movement would develop among evangelical Protestants in the late nineteenth century in reaction to the theological and cultural secularism of liberal Protestants. Browning, *Marriage and Modernization*, 36, 132.

<sup>237</sup> Taylor, *A Secular Age*, 253.

<sup>238</sup> This change in perspective would be made official in the 1917 Code of Canon Law, and later reinforced by Pope Pius XI in his papal letter *Casti Connubi* in 1930. John Witte, Jr., “The Goods and Goals of Marriage,” *Notre Dame Law Review* 76, no. 3 (Spring 2001): 1040.

<sup>239</sup> Berlinerblau, *How To Be Secular*, 33, 98; and Taylor, *A Secular Age*, 475.

<sup>240</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 105; and Taylor, *A Secular Age*, 1.

<sup>241</sup> Secular society started in Western Europe during the sixteenth century. Scholars more often look at the ‘secularization’ of North American culture as opposed to American ‘secularism’. In other words, the focus tends to be on the process of separation between religious and state affairs. When the origin of secularism is considered, however, scholars will look to the writings of notable Protestant and Enlightenment figures. Berlinerblau presents Martin Luther, Roger Williams, John Locke, Thomas Jefferson, and James Madison as major players in the secularist movement, each of whom advocated for religious freedom, religious equality, and the risks involved in joining religious power with government authority. Berlinerblau, *How To Be Secular*, xxvi-xxviii, 5, 16.

<sup>242</sup> Modern language variations of the term ‘secular’, such as the French *siècle* or the Spanish *siglo*, translate to ‘a century’ in English. Taylor, *A Secular Age*, 54, 264-265.

the ‘spiritual’ affairs of God, which transpired in eternity.<sup>243</sup> Compared to the year 1500, when a belief in God was ingrained in Western societal norms, secularism in the contemporary age has aimed to acknowledge and support the existence of pluralism; namely, that both religious belief and nonbelief can co-exist among people of equal rights.<sup>244</sup> In his book *A Secular Age*, Charles Taylor identifies this profound shift in the religiopolitical climate of the early centuries of Latin Christendom with the separation of religion from politics in modern Western society:

The difference would then consist in this, that whereas the political organization of all pre-modern societies was in some way connected to, based on, guaranteed by some faith in, or adherence to God, or some notion of ultimate reality, the modern Western state is free from this connection [...] The political society is seen as that of believers (of all stripes) and non-believers alike. Put in another way, in our “secular” societies, you can engage fully in politics without ever encountering God...<sup>245</sup>

Secularism as a political philosophy concentrates on the relationship between church and state, which is to remain separate, with religion mostly relegated to the private sphere, in order to fairly govern religious pluralism in Western society.<sup>246</sup> American secularism, on the other hand, is commonly misinterpreted as just separation or nonbelief, with some viewing it as evidence that God never existed.<sup>247</sup> The shift towards unbelief becoming the new default inclination of people in Western society is commonly related to the rise of secular philosophy and culture, wherein religion became viewed as a product of a ‘naïve’ life setting.<sup>248</sup> Today, many have come to link secularism to atheism, i.e., those who reject the existence of deities, or a ‘hatred of religion’, sometimes referred to as anti-theism.<sup>249</sup> The goal of secularism, however, when not misconstrued, is to promote human flourishing for any individual, whether religious or not, concerning all cultural and legal affairs, such as marriage; and when successful, secularism enables different orientations of any ethnic, religious, or sexual grouping, to coexist as equals.<sup>250</sup>

The transition to secularity, or separation, where religion, state, and the family were to only intersect within the private lives of individuals, erupted in North America between the 1940s to 1980s.<sup>251</sup> During this period of ‘cultural revolution’, where sexual mores and autonomy were becoming accepted as perfectly natural against the long-standing religious ethic of Western society, American reformers began pushing for greater rights for equality, freedom, sexuality, individualism, and privacy, much like the Enlightenment thinkers had before, but now with the intention of progressively repudiating the classical legal tradition and family values.<sup>252</sup> This cultural revolt, according to Taylor, was mostly led by young adults and teens defending individualism, fairness, and the freedom of sexual expression between the 1960s and the 1970s:

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<sup>243</sup> Taylor, *A Secular Age*, 265.

<sup>244</sup> Taylor, *A Secular Age*, 13-14, 28, 304.

<sup>245</sup> Taylor, *A Secular Age*, 1.

<sup>246</sup> This extends to all civil institutions and not just the state. Berlinerblau, *How To Be Secular*, 5, 68; and Taylor, *A Secular Age*, 1.

<sup>247</sup> Berlinerblau, *How To Be Secular*, 88.

<sup>248</sup> Taylor, *A Secular Age*, 14.

<sup>249</sup> Berlinerblau, *How To Be Secular*, xxiv.

<sup>250</sup> Berlinerblau notes that secularism and atheism are distinct and should never be considered synonymously. Secularism, in fact, aims to protect religious freedom. Berlinerblau, *How To Be Secular*, xvi, 10-11, 68; and Taylor, *A Secular Age*, 19.

<sup>251</sup> Berlinerblau, *How To Be Secular*, 54; and Witte, Jr., *From Sacrament to Contract*, 11, 195.

<sup>252</sup> Taylor, *A Secular Age*, 492; and Witte, Jr., *From Sacrament to Contract*, 195, 209.

The revolts of young people [...] were indeed, directed against a “system” which smothered creativity, individuality and imagination. They rebelled against a “mechanical” system in the name of more “organic” ties; against the instrumental, and for lives devoted to things of intrinsic value; against privilege, and for equality; and against the repression of the body by reason, and for the fullness of sensuality.<sup>253</sup>

As other options presented themselves as alternatives to Christianity during the postwar era, an ecumenical council, also known as the Second Vatican Council, which lasted between the years 1962 to 1965, was held to reinforce the fundamental values of the Augustinian goods and the contributions, both social and political, that families make in marriage to society.<sup>254</sup> Between the 1960s and 1980s, conservative supporters and other religiopolitical organizations actively challenged the moral outlook of progressive and liberal social scientists, feminists, and the modern Democratic Party, as well as liberal Protestant churches, who, for the most part, all accepted the rise in divorce rates, single-parent households, stepfamilies, and other changes to the traditional family as a natural consequence of modernization and secularization.<sup>255</sup> Many religious practitioners, at the time, were dissatisfied with this move towards separation, while the non-religious were just as unsatisfied with the other extreme of a society run by faith.<sup>256</sup> The ideal secular society offers its support to democracy and liberalism, but also extend the same support towards religion.<sup>257</sup> The critics of secularism, however, see the secularist movement as leading the separation of church and state towards a total renunciation of God.<sup>258</sup>

### *Contemporary Legal Marriage Reforms*

It was during this period of the mid-twentieth century on that the U.S. Supreme Court made several landmark legal decisions seeking to prevent religious values and doctrine from governing North American law, maintaining that all U.S. legislation should possess a secular motive in accordance with the U.S. Constitution.<sup>259</sup> Many of these culturally driven progressive or liberal legal changes would be challenged by the Christian community, conservatives, and the popes of the Catholic Church.<sup>260</sup> In 1965, the Supreme Court ruled that the Connecticut state law banning the use of contraceptives in a marriage violated the sexual privacy and freedom of the spouses in the trial *Griswold v. Connecticut*; and would later reinforce these same principles in

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<sup>253</sup> Taylor, *A Secular Age*, 476.

<sup>254</sup> Taylor, *A Secular Age*, 3; and Witte, Jr., “The Goods and Goals of Marriage,” 1041-1042.

<sup>255</sup> The moral philosophy of ‘secular humanism’ developed during the mid-twentieth century, which rejected any morals based in religious conviction in favor of secular ethics that were based on scientific reason. Several conservative religiopolitical groups formed in defense of the nineteenth century marriage structure, including Focus on the Family, the Christian Coalition, the Moral Majority, the Traditional Values Coalition, and the Family Research Council. Browning, *Marriage and Modernization*, 37-39.

<sup>256</sup> Many North American theologians and social scientists supported secular changes and encouraged Catholic churches to adapt. Berlinerblau, *How To Be Secular*, 17; and Browning, *Marriage and Modernization*, 131.

<sup>257</sup> Berlinerblau, *How To Be Secular*, 4.

<sup>258</sup> Berlinerblau, *How To Be Secular*, xvi, 35.

<sup>259</sup> Legal secularism did not intend to discredit religious beliefs and practice, but simply wanted to disconnect religion from government. The goal was to create a legal system suited to both Christian and non-Christians alike. Berlinerblau, *How To Be Secular*, xiii; and Jenna Reinbold, “Sacred Institutions and Secular Law: The Faltering Voice of Religion in the Courtroom Debate over Same-Sex Marriage,” *Journal of Church and State* 56, no 2 (Spring 2014): 258-259.

<sup>260</sup> Browning, *Marriage and Modernization*, 37, 39; and Witte, Jr., “The Goods and Goals of Marriage,” 1041-1042, 44.

1966, when the Supreme Court deemed abortion legal for wives within the first trimester of their pregnancy and of their own accord in *Roe v. Wade*.<sup>261</sup> In response, Pope Paul VI published his papal letter *Humanae Vitae* in 1968 stressing the significance of the good of procreation in marriage against the increasing legal support of both contraception and abortion for women at the time.<sup>262</sup> In 1967, the Supreme Court established the legality of miscegenation, or interracial marriages, in *Loving v. Virginia*, reinforcing marriage as a fundamental civil right.<sup>263</sup> In 1971, the Supreme Court established the ‘Lemon Test’ following the events of the *Lemon v. Kurtzman* trial, which ruled that all government acts must serve ‘a secular legislative purpose’, effectively accepting and encouraging both separation and pluralism as the new societal norms.<sup>264</sup>

In time, American legal reforms for divorce suits no longer required evidence of fault alone, such as adultery, but marriage parties with irreconcilable differences could privately enter into a written agreement to separate, which would include the division of property and childcare responsibilities, such as custody, child-support, and visitation rights.<sup>265</sup> In cases of unilateral separation suits involving minor children, custody would generally be granted to the mother unless shared custody arrangements were agreed upon, or if the ex-wife could otherwise be proven guilty of incompetence or serious marital fault.<sup>266</sup> The arguments made in *Loving v. Virginia* would also be used to advocate for the legality of same-sex marriage unions against the ‘tradition’ argument that a marriage must serve a procreative end and, as such, should be limited to heterosexual unions, most notably in the 2003 trial of *Lawrence v. Texas*.<sup>267</sup> That same year, the Vatican responded to the ongoing debate concerning the rights of same-sex unions, stressing that the Scripture condemns homosexual acts ‘as a serious depravity’ and is therefore a factuality among Christians.<sup>268</sup> The Christian law and the ‘tradition’ argument, used mostly by religious conservatives and lawyers, however, have been effectively overturned by secular and political policies, which are now normalized in Western society.<sup>269</sup>

### *Marriage Law and Culture Today*

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<sup>261</sup> Witte, Jr., *From Sacrament to Contract*, 210.

<sup>262</sup> Witte, Jr., “The Goods and Goals of Marriage,” 1044.

<sup>263</sup> Reinbold, “Sacred Institutions and Secular Law,” 264; and Witte, Jr., *From Sacrament to Contract*, 210.

<sup>264</sup> Berlinerblau, *How To Be Secular*, xiii; and Reinbold, “Sacred Institutions and Secular Law,” 258, 264.

<sup>265</sup> The Uniform Marriage and Divorce Act (*UMDA*) allowed a spouse to seek separation resulting from an irreconcilable marriage breakdown. It also provided a means of keeping separations caused by discord or infidelity private between consenting marital parties. The following Uniform Premarital Agreement Act no longer enforced prenups and marriage contracts. Witte, Jr., *From Sacrament to Contract*, 210-212.

<sup>266</sup> Witte, Jr., *From Sacrament to Contract*, 213.

<sup>267</sup> A common rebuttal used by attorneys in U.S. legal cases testifying against same-sex marriage was that the legalization of same-sex unions would jeopardize ‘social stability’, the ‘welfare of children’, and compromise the biological nature of heterosexual unions, echoing principles of traditional natural law and the first Augustinian good. Such arguments claimed to only denote and maintain what was natural in society. Lawyers who testified in opposition to cases for same-sex marriage with this rebuttal affectively, and likely intentionally, secularized a line of reasoning that is fundamentally Christian using ‘scientific’ language. Such claims ultimately lost their merit within secular North American law as many courts declared that arguments do not account for heterosexual couples without children and homosexual couples with adopted children and would often result in testimony for the welfare of children in cases against same-sex marriage being overruled. Reinbold, “Sacred Institutions and Secular Law,” 250, 253-254, 257, 263-264; and Jenna Reinbold, “Traditional Marriage on Trial: The Supreme Court, Same-Sex Marriage, and the Fate of Secular Argumentation,” *Journal of Church and State* 59, no. 1 (Spring 2017): 82-83.

<sup>268</sup> David Newheiser, “Sexuality and Christian Tradition: Innovation and Fidelity, Ancient and Modern,” *Journal of Religious Ethics* 43, no. 1 (Spring 2015): 123-124.

<sup>269</sup> Reinbold, “Sacred Institutions and Secular Law,” 263, 267.

The Western marriage tradition has undergone several reforms, effectively coming full circle and returning to a civil form of marriage similar to that which existed prior to its Christianization during the Middle Ages.<sup>270</sup> Marriage in our secular contemporary Western society is understood as a private legal contract between two consensual people, possibly celebrated with a religious or civil ceremony, governed by the common law, and concerns the social rights and duties of the spouses to one another regarding shared property, inheritance, and any existing children.<sup>271</sup> It is also considered a fundamental right for all individuals, regardless of gender and whether spouses are capable of having children together.<sup>272</sup> A marriage can be dissolved by either spouse as desired, with no-fault divorces offered to complying parties, as well as one-time property exchanges or privately negotiated settlements between divorcees.<sup>273</sup> In divorce cases involving childrearing, legal courts today will pass decisions aimed towards ‘the best interests of the child’ on a case-by-case basis, with joint or shared custody arrangements being the most common settlements.<sup>274</sup> The legal requirement of parental consent or witnesses during the marriage process is no longer existent, while prenuptial agreements have become more common for those planning to marry.<sup>275</sup> Marriage might be contracted in various forms, including a civil union held at city hall, a civil union held in a religious setting but without the sacramental meaning, or a traditional union in which the sacrament of marriage is celebrated by the newlyweds in a church.<sup>276</sup>

Traditional Christian ethics regarding sexual culture and marriage is no longer the benchmark for morality, but our current Western society has come to promote personal values and choice in conjunction with secular ethics.<sup>277</sup> Various forms of sexual living other than heterosexual acts have been normalized.<sup>278</sup> Wedding ceremonies and receptions are more often held in secular venues instead of in the church, especially among young adults both religious and

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<sup>270</sup> Witte, Jr., *From Sacrament to Contract*, 12.

<sup>271</sup> Mark J. Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” *Christian Bioethics* 21, no. 2 (Summer 2015): 151; and Witte, Jr., *From Sacrament to Contract*, 195.

<sup>272</sup> In 2014, the Parliament of the United Kingdom passed an act legalizing same-sex marriages across the country, and subsequently, in 2015, the Obergefell v. Hodges trial ended with the U.S. Supreme Court declaring marriage to be a fundamental right to homosexual couples and legalizing same-sex marriage across all 50 US states. During the Obergefell v. Hodges trial, the court explicitly demanded the respondents to refrain from religious or ‘tradition’ based arguments against the case for same-sex marriages. Barton, “Kinship, Marriage and Family,” 14; Reinbold, “Traditional Marriage on Trial,” 81, 83, 91; Charles N. Rowe, “Love, Homosexual Marriage, and the Common Good,” *The National Catholic Bioethics Quarterly* 11, no. 2 (Summer 2011): 271; and Witte, Jr., *From Sacrament to Contract*, 11.

<sup>273</sup> Witte, Jr., *From Sacrament to Contract*, 11, 195, 212.

<sup>274</sup> Prior to the mid-1960s, custody of any minor children would be granted to the innocent party of a fault-based divorce, which, in many cases, was the mother. Maternal custody is no longer the norm in Western society today. Child support payments are likely required by any parent who does not have sole or joint custody. Witte, Jr., *From Sacrament to Contract*, 211, 213.

<sup>275</sup> Witte, Jr., *From Sacrament to Contract*, 11, 195.

<sup>276</sup> The contractual and sacramental forms of marriage are often separated by Catholic churches because only baptized Christians can receive the sacrament of marriage; however, many churches will still choose to marry non-baptized couples to encourage newlyweds towards the sacramental value of marriage. The spouses, ideally, would seek the sacrament in the future. Most Catholic churches seem to acknowledge that the total separability of sacrament and contract marriages is problematic since many people seeking marriage today are unbaptized or baptized nonbelievers, and so refusing to marry such individuals would hinder the number of weddings held in the church. Susan Wood, “The Marriage of Baptized Nonbelievers: Faith, Contract, and Sacrament,” *Theological Studies* 48, no. 2 (Summer 1987): 280, 284.

<sup>277</sup> Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 151.

<sup>278</sup> Berlinerblau, *How To Be Secular*, xxii; and Witte, Jr., *From Sacrament to Contract*, 195.

nonreligious.<sup>279</sup> Outdoor and destination weddings have especially gained prominence today.<sup>280</sup> Wedding officiants, in turn, are also commonly not priests or ministers anymore, but weddings are instead officiated by pastors, deacons, or commissioners.<sup>281</sup> A wife may not take the surname of her husband due to the removal of patriarchal culture, though we might find some spouses taking both surnames as an alternative.<sup>282</sup> Women have more reproductive freedoms, including access to birth control, surrogacy contracts and, to some extent, abortion.<sup>283</sup> Western society has come to acknowledge that stepparents, foster families, or same-sex partners could also provide a healthy and proper upbringing to children, especially when the biological parent is appalling or lamentable at their given role.<sup>284</sup> While most consensual partnerships are now given the right to privacy in carnal and marital affairs, the state, however, will generally interfere in any sexual, marriage, or family disturbance brought to its attention.<sup>285</sup>

The Catholic church, on the other hand, continues to be mostly unmoving when it comes to the sacramental nature of marriage, slightly modified over the past centuries, notably during Vatican II, with Augustine's marriage theology remaining the cornerstone of its teaching and canon law on marital and family life; and so, in some ways, the medieval marriage tradition does exist today, but only among participating Christians.<sup>286</sup> The Catholic church still views divorce as reprehensible, but it has become much easier for Christian spouses experiencing a marital breakdown to find an impediment to marriage so as to invalidate or dissolve their marriage union.<sup>287</sup> In his book *Marriage and Modernization*, Browning summarizes the enduring values of the Catholic church towards conjugal relationships between heterosexual spouses:

Because Roman Catholicism believes that natural parents, i.e., the man and the woman who conceived the child, are on average more likely to be capable of long-term investment in the child than all possible alternatives, the Church is deeply committed as a world strategy to the protection and enhancement of the conjugal couple within the context of the committed, publicly recognized, and religiously blessed institution of marriage [...] Good marriages, according to Roman Catholicism, are part of what goes into the well-being of children, the well-being of women, the health of men and fathers, the good of societies, the good of industry, and the wealth and stability of nations all over the face of the earth.<sup>288</sup>

The Catholic church also sustains the natural law tradition, prohibits abortions, deplors out-of-wedlock births, condemns contraception, opposes homosexual unions, and further urges

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<sup>279</sup> It is not uncommon for even practicing Christians to seek marriage outside of the church setting, since churches tend to have restrictions on the type of music or activities that can be incorporated into the ceremony. John P. Juedes, "Contemporary Approaches to Weddings, Funerals, and Burial Practices," *Lutheran Mission Matters* 27, no 2 (Fall 2019): 336-337, 341.

<sup>280</sup> Juedes, "Contemporary Approaches to Weddings, Funerals, and Burial Practices," 340.

<sup>281</sup> Priests and ministers will only officiate in the church setting, while other officiants are open to secular wedding venues. Deacons, however, are usually invited by a church to officiate for the wedding of religious individuals who wish to be married outside of the church, since deacons are understood to work between the church and the community. Juedes, "Contemporary Approaches to Weddings, Funerals, and Burial Practices," 336, 342-343.

<sup>282</sup> Andrew Davison, *Why Sacraments?* (London: Society for Promoting Christian Knowledge Publishing, 2013): 26.

<sup>283</sup> Berlinerblau, *How To Be Secular*, xxii; and Witte, Jr., *From Sacrament to Contract*, 195.

<sup>284</sup> Browning, *Marriage and Modernization*, 137.

<sup>285</sup> Witte, Jr., *From Sacrament to Contract*, 12.

<sup>286</sup> Witte, Jr., *From Sacrament to Contract*, 13, 30.

<sup>287</sup> Witte, Jr., *From Sacrament to Contract*, 34.

<sup>288</sup> Browning, *Marriage and Modernization*, 220.

the presence of the mother in the home for proper childrearing.<sup>289</sup> The Catholic church has changed its opinion of sexual satisfaction and instead acknowledging intimacy and intercourse as having benefits other than procreation, but that couples must engage in sexual gratification only in marriage and should always be open to the idea of having children in the process.<sup>290</sup> The current stance of the Vatican, however, is against secular ethics and denounces those who choose to live ‘irregular’ sexual lifestyles, especially outside of the marriage bond.<sup>291</sup> The conservative Christian Revival movement has also succeeded in combating some of the changes brought about by secularism in North America.<sup>292</sup> Finally, the Scripture still plays a significant role in the lives of many Christian couples, contextualizing most decisions made both prior to and in marriage.<sup>293</sup> Some Christian couples will seek marriage in a church, where the Gospel can be shared by a priest or pastor and the union graced by God via the sacrament of marriage.<sup>294</sup> Due to such beliefs, many Catholics believe that marriage is not a ‘secular reality’, but one which is always connected to the sacrament and salvation.<sup>295</sup> While the Catholic position has certainly remained rigid to an extent, attempts at marital and family reform, with varying successes, pervades the history of Latin Christendom, particularly during the second millennium, and revisions to marriage and family laws continue to inform the culture Western Christendom today.<sup>296</sup>

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<sup>289</sup> The Catholic church understands its anti-abortion and anti-contraception position to be ‘pro-woman and anti-patriarchal’, aiming to prevent the ‘instrumentalization’ of women and to promote sexual restraint from men. The stance of the church remains, in part, due to the noticeable increase in abortions and out-of-wedlock childbirths in society. Legal abortions, the church believes, also encourages sexual misconduct. Barton, “Kinship, Marriage and Family,” 12; and Browning, *Marriage and Modernization*, 221-222.

<sup>290</sup> Browning, *Marriage and Modernization*, 222; and Davison, *Why Sacraments*, 113.

<sup>291</sup> Taylor, *A Secular Age*, 503.

<sup>292</sup> Berlinerblau, *How To Be Secular*, xi-xii, xix, 103.

<sup>293</sup> Stephen C. Barton, “Biblical Hermeneutics and the Family,” in *The Family in Theological Perspective* (London: T&T Clark, 1996): 4.

<sup>294</sup> The common process for Catholics who seek a traditional marriage is to undergo a preparation period of about six months, including a premarital questionnaire, mentorship for the engaged, marriage education courses to further prepare the couple for married life, and, finally, the wedding ceremony is held in a church and officiated by a pastor or priest. Pastors will rarely marry a couple outside of the church and might outright refuse a couple that are not church regulars. Browning, *Marriage and Modernization*, 193, 205; and Juedes, “Contemporary Approaches to Weddings, Funerals, and Burial Practices,” 336, 341.

<sup>295</sup> Wood, “The Marriage of Baptized Nonbelievers: Faith, Contract, and Sacrament,” 299.

<sup>296</sup> Taylor, *A Secular Age*, 503.



## Chapter 3

### How Marriage Might Be Rethought Given the Christian Contribution in the Face of Secular Challenges

#### *The Aftereffects of Secularization on the Welfare of the Family*

The advent of modernity led to the process of secularization which, over the course of the twentieth century on, has resulted in major social and legal changes in the contemporary Western world, as well as divergent attitudes and lifestyles concerning intimacy norms still developing today.<sup>297</sup> In an attempt to offer greater legal equity, cultural sensitivity, and fundamental civil rights to all people, current marriage laws, under the pressure of secularism, now allows individuals, whether religious and not, to marry in their preferred setting and manner.<sup>298</sup> While there are still some inequalities prominent within Western society, secularism has arguably generated many positive social and economic changes for the contemporary Western family when compared to prior generations; namely, the average family benefits from greater material wealth, most parents receive higher or equal incomes, families are no longer expected or need to have lots of children for the sake of the population, partners have access to more advanced reproductive technologies, and family members in general are healthier, have better access to healthcare, and live longer.<sup>299</sup> The contemporary Western marriage tradition is also, to put it one way, significantly less ‘cruel’ in its standards for ‘marital formation, maintenance, and dissolution’, and any unhappy contracted marital partnership can now be dissolved with little to no punishment from the state.<sup>300</sup>

Despite the good or well-intentioned changes that secularism has enacted in Western society, the institution of marriage has noticeably suffered in recent years.<sup>301</sup> The welfare achieved or envisioned by the processes of secularization has not offered stability and happiness to all marriages.<sup>302</sup> The wellness of the family is arguably now at its lowest since the Middle Ages.<sup>303</sup> Many marriages end in divorce today, which, in turn, has resulted in more single-parent

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<sup>297</sup> Roland H. Bainton, *What Christianity Says About Sex, Love and Marriage*, (New York: Association Press, 1957): 108; and Charles Taylor, *A Secular Age* (Cambridge: Belknap Press, 2018): 22.

<sup>298</sup> Jacques Berlinerblau, *How To Be Secular: A Call to Arms For Religious Freedom* (Boston: Houghton Mifflin Harcourt, 2012): 19; John P. Juedes, “Contemporary Approaches to Weddings, Funerals, and Burial Practices,” *Lutheran Mission Matters* 27, no 2 (Fall 2019): 336-337, 341; and John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville: Westminster John Knox, 2012): 196.

<sup>299</sup> It is not evident whether this ‘new family form’ has brought more happiness to families today than the patriarchal marriage structure. Population growth, however, had become and continues to be a problem in some countries. Protestants, in turn, defended ‘the principle of the limitation of families’, which allows for the use of contraception and other pregnancy prevention technologies. Catholics, on the other hand, do not support such preventative measures. Bainton, *What Christianity Says About Sex, Love and Marriage*, 108; Don S. Browning, *Marriage and Modernization: How Globalization Threatens Marriage and What to Do About It* (Grand Rapids: Eerdmans, 2003): 4, 8; Emerson Hynes, “A Family Reflection,” *Orate Fratres* 23, no 3 (Jan 1949): 109; and Witte, Jr., *From Sacrament to Contract*, 196.

<sup>300</sup> Charles J. Reid, Jr., “The Augustinian Goods of Marriage: The Disappearing Cornerstone of the American Law of Marriage,” *Brigham Young University Journal of Public Law* 18, no. 2 (Summer 2003): 472; and Witte, Jr., *From Sacrament to Contract*, 217.

<sup>301</sup> Browning, *Marriage and Modernization*, ix, 1.

<sup>302</sup> Hynes, “A Family Reflection,” 107.

<sup>303</sup> Browning, *Marriage and Modernization*, 1.

homes and sometimes the absence of a parent in the childrearing process.<sup>304</sup> The number of children born into or raised in poor or broken homes is at an all-time high, with the children raised under these conditions more likely to struggle with depression and anxiety or have difficulty achieving success in school and, subsequently, in society.<sup>305</sup> Remarriages are becoming more common and, as such, many families are comprised of ‘step-relationships’ or other unconventional familial connections.<sup>306</sup> Marriage also no longer plays a particularly significant role in Western society and there are less people contracting marriages every year, with many couples opting for cohabitation instead and, as a result, there has been a major increase in nonmarital childbirths.<sup>307</sup> The sexual freedom encouraged by secularism has potentially contributed to the increase in teenage pregnancies and venereal diseases as well.<sup>308</sup>

The aforementioned disordering to marriages and family life have all been attributed to secular culture, particularly by conservatives or fundamentalist Christians.<sup>309</sup> Secularism has also been accused of denoting non-religious attitudes towards most social, political, and ethical affairs which, in turn, undermines and marginalizes both individuals and families who continue to possess strong religious convictions.<sup>310</sup> Many people today who have come to accept the more secular or progressive societal norms are at odds with the teachings of the Catholic faith, and some Christians who have adapted to recent changes now feel alienated from their community.<sup>311</sup> Such changes to Western society have made certain forms of religious living ‘virtually unsustainable’, with some opting to abandon religion altogether.<sup>312</sup> While the Catholic church can

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<sup>304</sup> The absent parent is more often the father. Browning, *Marriage and Modernization*, ix, 1, 4, 9 18, 30; and Mark J. Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” *Christian Bioethics* 21, no 2 (Summer 2015): 152.

<sup>305</sup> Witte, Jr., *From Sacrament to Contract*, 214.

<sup>306</sup> Stephen C. Barton, *The Family in Theological Perspective* (London: T&T Clark, 1996): xi

<sup>307</sup> Barton, *The Family in Theological Perspective*, xi, xv; Browning, *Marriage and Modernization*, 9, 16, 18, 30, 240; Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 152; Reid, Jr., “The Augustinian Goods of Marriage,” 472; and Taylor, *A Secular Age*, 595.

<sup>308</sup> Browning, *Marriage and Modernization*, 240.

<sup>309</sup> Browning notes that there is no proven correlation or causation between secularism and the dismal health of marriages and the family today. Most arguments are comprised of speculation and statistically data that is self-contained, without any real connection to the aftereffects of secularism over the years. Guindon adds that the increase in divorces today cannot solely be attributed to a rise in infidelity in Western society; since the human life expectancy was much shorter prior to the twentieth century, with the average person only living to about thirty, spouses were together for a smaller number of years. Divorce has possibly increased in recent years because people are together longer than ever before and thus have more time to grow apart from the other. Browning, *Marriage and Modernization*, 10, 37; and André Guindon, *The Sexual Creators: An Ethical Proposal for Concerned Christians* (Maryland: University Press of America, 1986): 102.

<sup>310</sup> Reinbold notes that legal secularism and the Lemon Test have effectively removed religion from the courtroom, despite efforts from Christian lawyers to secularize any fundamentally religious arguments and laws. Juedes, “Contemporary Approaches to Weddings, Funerals, and Burial Practices,” 337; and Jenna Reinbold, “Sacred Institutions and Secular Law: The Faltering Voice of Religion in the Courtroom Debate over Same-Sex Marriage,” *Journal of Church and State* 56, no 2 (Spring 2014): 251, 260, 262, 268.

<sup>311</sup> Taylor, *A Secular Age*, 493.

<sup>312</sup> Cherry and Reinbold note that Catholics are often collectively labelled homophobic, intolerant, or sexists by progressive or secularist supporters. Reinbold adds that alienating religious thought entirely from the institution of marriage will only serve to build greater tension with secularist thought rather than leading to the joining of the two polarizing sides in solidarity, making the process of coming to some form of consensus an arduous effort long-term. Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 145, 152; Reinbold, “Sacred Institutions and Secular Law,” 250; Jenna Reinbold, “Traditional Marriage on Trial: The Supreme Court, Same-Sex Marriage, and the Fate of Secular Argumentation,” *Journal of Church and State* 59, no. 1 (Spring 2017): 82, 92, 94; and Taylor, *A Secular Age*, 143, 595.

be said to have contributed to the rise of secularism during the age of modernity which, at the time, had aimed to work in conjunction with religious institutes to reform traditional marriage and family norms, secularity now mostly serves as the antithesis of religious dogma and tradition.<sup>313</sup> For those who acknowledge the concept of ‘secular’ government which began during the Reformation and the Enlightenment periods, however, it becomes apparent that a widespread misconception has developed in our contemporary Western society wherein secularity has come to denote anti-religious attitudes when, in fact, the goal of secularism has always been to support a ‘pluralistic society’ accessible and suitable ‘for all’ types of people, both religious and non-religious.<sup>314</sup> The consequence of such rigid thought is that many contemporary thinkers and citizens choose to maintain that a person ‘cannot be both religious and secular’ and, in turn, many Catholics and secularists fail to comprehend or cannot be convinced that there are ‘more ways of being a Catholic Christian’ than either group envisions for Western Society.<sup>315</sup>

### *The Complexities in Forming a New Marriage Model for Western Society*

The crises facing contemporary marriages and families now is not unlike disagreements concerning the underlying principles, dissolution, and accessibility of marriage of past centuries; including, but not limited to, the marital issues of the 5<sup>th</sup> century in the Latin West given the prominence by Saint Augustine, in the 12<sup>th</sup> century by Hugh of Saint Victor, in the 13<sup>th</sup> century by Aquinas, in the 16<sup>th</sup> century by Luther and Calvin, and in the 19<sup>th</sup> century by John Stuart Mill.<sup>316</sup> Recent reform movements for gender equality in, for example, divorce cases, or women’s rights over their own body concerning contraception or abortion laws, or a right to same-sex marriage might all be considered welcomed changes for many in our contemporary Western world, but not all scholars agree with or support such reforms, especially those who continue to favor Catholic doctrine and tradition.<sup>317</sup> Many progressive or liberal thinkers, on the other hand, state that the Catholic faith and its teachings on procreation, sexual acts, and the sacrament in marriage is just ‘the thoughtless heavy hand of tradition’ which only serves to disturb the current struggle of families, with the ‘authoritarian’ stance of the Catholic church bothering many today.<sup>318</sup>

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<sup>313</sup> Browning, *Marriage and Modernization*, 31; and Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 144.

<sup>314</sup> Berlinerblau, *How To Be Secular*, xviii, xxix; and Reinbold, “Sacred Institutions and Secular Law,” 264.

<sup>315</sup> Berlinerblau, *How To Be Secular*, xviii, xxiii; and Taylor, *A Secular Age*, 504.

<sup>316</sup> Stephen C. Barton, “Kinship, Marriage and Family: Learning from Tradition.” *Colloquium* 50, no. 2 (Winter 2018): 23; and Witte, Jr., *From Sacrament to Contract*, 217.

<sup>317</sup> Several Christian scholars have defended the family values of the traditional marriage model against recent arguments from post-modern Christians, progressives, and secular thinkers. Cherry laments that divorce and abortion are no longer seen as sinful, attributing the change to the weakening of traditional spiritual and moral values in Western society. Giampietro and Rowe both state that marriage should only be between a man and a woman because any other form of a marital union is a distortion of what is natural, with Rowe adding that homosexual unions lack a needed ‘complementarity’ in their relationship. Grobrien follows Rowe, stating that same-sex union are sinful because they violate traditional natural law and ‘the male-female complementarity’ of their physical union. Waldstein defends that marriage is fundamentally ordered to the common good of society through the unions of men and women who intend to have children. Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 147, 157; Anthony E. Giampietro, “Marriage and the Public Good,” *Christian Bioethics* 13, no. 2 (Aug 2007): 212; Gifford Andrew Grobrien, “Marriage and So-Called Civil Unions in Light of Natural Law,” *Concordia Theological Quarterly* 77, no. 3 (Fall 2013): 270; Charles N. Rowe, “Love, Homosexual Marriage, and the Common Good,” *The National Catholic Bioethics Quarterly* 11, no. 2 (Summer 2011): 269, 273; and Michael Waldstein. “Children as the Common Good of Marriage.” *Nova Et Vetera* 7, no 3 (Summer 2009): 703, 707.

<sup>318</sup> Browning, *Marriage and Modernization*, 56; and Taylor, *A Secular Age*, 493.

In recent attempts to mediate the plurality of opinions found in Western society, it is debatable whether all of the progressive changes to marriage and family norms should be viewed as instrumental to social and cultural pluralism, as some contemporary thinkers would contend, or if the removal of Christian values from marriage in favor of a more secularist regime has ultimately deteriorated the goodness and higher status that was once attributed to a marital union.<sup>319</sup> The Catholic faith established a moral foundation in its conception of marriage and the family designed to support and nourish the life built between Christian spouses.<sup>320</sup> Some scholars, in turn, contend that the recent perceptions of marriage and the family which favor multi-culturalism, individuality, and new scientific developments have become increasingly devoid of the proper spiritual values arguably needed to sustain and offer meaning to a marriage union.<sup>321</sup> Since families are now more prosperous within Western society, Emerson Hynes states that the increase in divorces and poor reproduction numbers among North American spouses, both Christian and non-Christian, might be attributed to the lack of theological inclination within marriages and families, as was actively observed throughout the Middle Ages and most of the Modern Era, as opposed to socio-political or cultural reasons:

Our good Christian ancestors did not have all the inventions of modern science, but they had deep faith in the providence of God. And their marriages were lasting, their children were many, and their family happiness was real [...] Certainly these [negative] conditions prevailed in the past. But the reaction was different, because the whole interpretation of life was different [...] The future of the family depends not so much on the development of new scientific aids as on the return to the old, and eternal, principle of strength. Our error is not because we use modern material achievements. They are generally good and useful aids to the family. Our difficulty is the neglect of the spiritual fountain which alone gives purpose and strength to our marriages.<sup>322</sup>

Cherry adds that an undermined knowledge of God and traditional Catholic values has led to a deconstructed sense of community and family life.<sup>323</sup> Put another way, people in Western society today need to reincorporate the ‘transcendent’ or spiritual dimension of marriage and family with the more ‘immanent’ goals in seeking or living such a life.<sup>324</sup> Without a spiritual inclination, the practice of marriage and raising children, to an extent, might be considered a commercial product that is bought, sold, or traded as desired.<sup>325</sup>

Western society is comprised of Christians and non-Christians, and so it cannot function under a purely Christian regime; as such, marriage and family life is a private, secular, and civil contract to better accommodate the divergent lifestyles which exist today.<sup>326</sup> Marriage as a ‘religious communally-acknowledged covenant’ still exists in Western society, but is now

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<sup>319</sup> Browning, *Marriage and Modernization*, ix; and Hynes, “A Family Reflection,” 109.

<sup>320</sup> Barton, “Kinship, Marriage and Family,” 23

<sup>321</sup> Browning states that emphasis on individualism in recent years is likely the result of interactions between the differing perspectives on value in the last several decades: Catholics understood every individual to be valuable in the eyes of God, the Enlightenment thinkers saw individual freedom as invaluable, and the economic and socio-political focus of our Western society has come to accept ‘expressive and utilitarian individualism’ as significant today. Barton, “Kinship, Marriage and Family,” 23; Browning, *Marriage and Modernization*, x, 41 181; and Hynes, “A Family Reflection,” 109.

<sup>322</sup> Hynes, “A Family Reflection,” 110.

<sup>323</sup> Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 144-146.

<sup>324</sup> Taylor, *A Secular Age*, 143.

<sup>325</sup> Stephen C. Barton, “Biblical Hermeneutics and the Family,” in *The Family in Theological Perspective* (London: T&T Clark, 1996): 12; and Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 155.

<sup>326</sup> Barton, “Biblical Hermeneutics and the Family,” 12; and Taylor, *A Secular Age*, 1.

reserved between the spouses.<sup>327</sup> The institution of marriage, by all rights, should never return to solely functioning under a Christian regime.<sup>328</sup> Concerning the rehabilitation of marriage and the family, however, Browning suggests that our secular Western society must, to some extent, reengage with traditional Christian marriage theology and reform its marital principles where necessary:

The cure for this situation, however, does not mean protecting marriage and family at any cost; it entails reforming and reconstructing these institutions while also nurturing a wide range of other social supports and transformations [...] The cure for this problem must be found in part in recreating the establishment of these natural conditions that brought about family formation in the first place.<sup>329</sup>

Some of the more antiquated principles found in the Christian tradition will have to inevitably be ‘misplaced’ in order to recognize and honor some of the invaluable changes realized in contemporary Western society, as well as to better appeal to and engage with all types of people.<sup>330</sup> Having reflected on the contemporary Western marriage tradition, it has become apparent that the Christianized form of marriage, or the sacramental model of marriage, is incompatible with Western society today, while a fully secular form of marriage is unacceptable to traditional Catholic Christians; as such, the institution of marriage and its values need to become truly secular in its essential form, that is, both religious and non-religious.<sup>331</sup> The points of discussion going forward are thus twofold: first, how should Christianity address secular changes as they impact the traditional marriage and family structure; and second, what parts of the Catholic marriage tradition can be accepted in contemporary Western marriages?<sup>332</sup> Since marriage is a secular institution, in that it is accessible to any consenting seekers, it must aim to honor both religious and non-religious ideals.<sup>333</sup> Western society is therefore in need of another marriage reformation, wherein traditional and secular marriage discourse engage in careful dialogue with the other on how to establish marriage as a worthwhile and approachable religio-cultural institution, as well as designing a marriage model properly suited for the twenty-first century.<sup>334</sup>

### *Joining the Secular and Christian Moral Ethos*

Recent changes concerning sexual ethics, marriage, and the family have formed a wall between the Catholic church and contemporary worldviews.<sup>335</sup> Sexual ethics in Catholicism has historically focused on the condemnation of sexual acts before marriage, divorce, homosexual relationships, contraception, abortion, and masturbation in an effort to promote and safeguard the values of procreation, fidelity and the sacrament, which the Catholic church and its followers still

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<sup>327</sup> Barton, “Biblical Hermeneutics and the Family,” 12.

<sup>328</sup> Berlinerblau, *How To Be Secular*, 17.

<sup>329</sup> Browning, *Marriage and Modernization*, x, 88.

<sup>330</sup> Barton, “Kinship, Marriage and Family,” 23; and Juedes, “Contemporary Approaches to Weddings, Funerals, and Burial Practices,” 337.

<sup>331</sup> Berlinerblau, *How To Be Secular*, xviii; Browning, *Marriage and Modernization*, 181; and Reinbold, “Traditional Marriage on Trial,” 92, 99-101.

<sup>332</sup> Barton, “Kinship, Marriage and Family,” 6, and Browning, *Marriage and Modernization*, xiii.

<sup>333</sup> Berlinerblau, *How To Be Secular*, xviii.

<sup>334</sup> Browning, *Marriage and Modernization*, x, 181, 224.

<sup>335</sup> Guindon, *The Sexual Creators*, 4.

view as both essential and unquestionable.<sup>336</sup> The Catholic tradition, in turn, has been called ‘a vehicle of intolerance within modernity’ concerning sexual freedom, with some claiming that the traditional Catholic teachings on marriage and the family are fundamentally ‘bigoted’, ‘homophobic’, or ‘thoroughly bankrupt’ in its morals.<sup>337</sup> The uncompromising stance from the Catholic church on obstructing same-sex unions, contraception and abortion rights, and sexual acts outside of the marriage bed have arguably shrouded the notion of sexual ‘fecundity’ as nothing more than a term relative to fertility for its devoted followers when, in fact, it could also represent the many ways in which people, whether Christian or not, could live ethically sexual and healthy lives.<sup>338</sup>

Some scholars, on the other hand, contend that the demand for moral and cultural pluralism, as well as the rise of ‘expressive individualism’, has distorted ‘all forms of sexual ethic’, resulting in a total breakdown of behavioral and social relations in Western society.<sup>339</sup> Cherry argues that the removal of doctrine in the tradition of marriage in order to instead support a ‘weak theology’, that is, a theology of marriage that is inclined to solidarity over dogma, results in a melting pot of opinions that inevitably diminish one another in the attempt to acknowledge and support different individuals or groups.<sup>340</sup> Whereas traditional Catholic marriages had a focused moral ethos, as guided by God and the sacrament, secularity has spawned too many modes of sexual ethics among post-modern individuals to the point of it becoming a ‘Babel’.<sup>341</sup> Discussions toward improving marriage and family life, as such, have become so diverse that each moral standpoint is uncompromising and essentially preoccupied only with the self.<sup>342</sup> Many scholars, in turn, state that the purpose of marriage has become obscured and that marriage and the family today has become a selfish practice without the concept of sacrifice, with those in a marriage union more concerned with individual happiness or the mutual happiness of only the spouses without any given thought to the genuine good that the union could offer to the community.<sup>343</sup>

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<sup>336</sup> Browning, *Marriage and Modernization*, 56; and Guindon, *The Sexual Creators*, 43.

<sup>337</sup> Browning, *Marriage and Modernization*, 41; Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 145; Reinbold, “Sacred Institutions and Secular Law,” 250; and Reinbold, “Traditional Marriage on Trial,” 94.

<sup>338</sup> Guindon, *The Sexual Creators*, viii.

<sup>339</sup> Barton, *The Family in Theological Perspective*, xv; and Taylor, *A Secular Age*, 473, 496.

<sup>340</sup> Weak theology is a hermeneutical lens often used in theological bioethics which integrates aspects of post-modernism into traditional theological discourse by avoiding the affirmation of dogmatic language in favor of deflated theological claims. For example, in rephrasing the absolute condemnation of abortion as, instead, a personal decision to reject abortion, the latter statement now lacks any authority and legitimacy, becoming just another opinion or preference. A weak theology, in turn, supports solidarity over dogmatism. Concerning the topic of marriage and the family, a weakened theology results in a theology where there are no absolutes in marriage and, instead, every aspect of the family is always up for interpretation. Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 146-148, 152.

<sup>341</sup> Cherry also states that the moral ethos found in secular culture, which is based on individualism, cultural or sexual diversity, and various ideological virtues, misrepresents the Christian family and further compromises the important values nurtured within the Christian perspective on marriage and family life. Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 145, 157.

<sup>342</sup> Barton notes that when it comes to ‘family’ rhetoric, particularly in political conversation, conservatives are generally preoccupied with ‘traditional family values’, liberals with individual rights and social reformation, fundamentalists with the family as a representation of the proper moral standard, and feminists with ongoing patriarchal structures. Barton, *The Family in Theological Perspective*, xiv; and Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 145.

<sup>343</sup> Not all scholars concede that there is a spiritual or moral deficiency affecting contemporary Western society, but many still recognize the ongoing decline in the health of marriage and the family. The discussion from

The ‘stern’ marriage formation and dissolution regulations of the Catholic tradition and the ‘loose’ regulations of the civil law both suffer from ethical fault ‘by defect and excess’, respectively, failing to promote a virtuous model of marriage.<sup>344</sup> In considering the solution to the disordering of marital and family values today, Browning proposes that the efforts made today in contemporary Western society to defend the welfare of marriage and the family must instead work towards rebuilding the social and cultural conditions which allowed the marriages and families to naturally flourish in the past, but now adapted to function in conjunction with some of the changes realized in the secular world:

To reemphasize the importance of a Christian view of marital commitment, however, is not to reduce the family problems created by modernity to a simple matter of building more commitment between husband and wife. Stronger supports from civil society, government, and business are required. A new world culture of marriage education is necessary. A new global refocusing of the time available for parenting and spousal relations is needed. But however important these things are, the proper metaphysical ground of marital commitment is crucial to them all.<sup>345</sup>

The contemporary Western inclination towards ‘mutuality and equal regard’ as the proper expression of love, therefore, must also be supported by an ‘enduring commitment’ to confronting the complex dynamisms of marriage and family life, including marital hardships and family disruptions.<sup>346</sup> Marriage, of course, is still a good institution within Western culture, recognized as a lifestyle designed to promote human flourishing, with many lasting partnerships and children raised in nurturing households today; however, wherein Western society had once seen stable marriages as integral to the welfare of the community, contemporary marriages and families are struggling to manifest the mutual respect and sexual freedom that is championed by many today in a manner that also sustains their relationships.<sup>347</sup> Traditional Catholic values potentially ‘contains the seeds of excellence’ to contribute to reinvigorating the current moral ethos of contemporary Western society, advocating for essential human rights as well as human responsibility within marriages and families, but much of the traditional Catholic theology on marriage and the family would require both revisions and amendments to its doctrine and understanding of Scripture.<sup>348</sup>

### *The Value of Christian Marriage Theology Today*

Marriage is a useful, natural inclination for people that is proven to be better for long-term couples or parents for both financial and health related reasons.<sup>349</sup> Marriage in the Catholic

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those concerned is also often hindered by a general lack of historical, theological, and social-scientific knowledge from the arguing parties. Berlinerblau, *How To Be Secular*, xviii; Browning, *Marriage and Modernization*, 47; Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 144-145; Taylor, *A Secular Age*, 143, 473, 493, 496; Waldstein, “Children as the Common Good of Marriage,” 704-706; and Witte, Jr., *From Sacrament to Contract*, ix.

<sup>344</sup> Guindon, *The Sexual Creators*, 32.

<sup>345</sup> Browning, *Marriage and Modernization*, 94.

<sup>346</sup> Browning, *Marriage and Modernization*, 47.

<sup>347</sup> Browning, *Marriage and Modernization*, 47; John Witte Jr., “The Goods and Goals of Marriage,” *Notre Dame Law Review* 76, no. 3 (Spring 2001): 1069; and Taylor, *A Secular Age*, 496.

<sup>348</sup> Browning, *Marriage and Modernization*, 24, 179-180.

<sup>349</sup> Witte, Jr., notes that statistically couples, especially those with children, are less likely to substance abuse, take less risks, tend to avoid immoral actions, have greater life expectancies, have healthy sexual lives, earn

Christian tradition, however, is not just a natural institution, but a spiritually significant ‘social, economic, and contractual association – subject to the church, state, community, and couple’ all at once.<sup>350</sup> The laws of nature and arguments concerning human nature in the Catholic faith are formed through Scripture, reason, cultural norms, and human experience, as per tradition.<sup>351</sup> The Scripture is also a resource of knowledge on proper moral living and law that is now only referred to by select communities who are open to its teachings on marriage and family life, while the sacraments, including the sacrament of marriage, are seen by these same communities as a means for God to connect with his creation and, in turn, people can actively participate or engage with Christ and the Holy Spirit through these rites.<sup>352</sup> The sacraments are thus understood to ‘invite action’ from its participants; in marriage, spouses are invited to have and raise children, engage in safe and controlled sex, and to remain loyal and married to one another until death.<sup>353</sup> Sacramental marriage theology, therefore, views marriage and the family as an opportunity to foster and nourish loving relationships, by way of undertaking the goods and goals of a marriage union.<sup>354</sup>

If marriage is a good institution, and is properly understood as such, then the good attributed to marriage should, in turn, be reason enough for people to want to get married.<sup>355</sup> Andrew Davison states that the Augustinian goods of marriage sustained by the traditional Catholic theology and doctrine continue to be defended by the faithful and, to some extent, by Western society today because these marital goods are understood to be inherently good in that they naturally promote useful values, such as healthy, fruitful, and lasting relationships among families:

In that the sacraments are always encounters between one person and another, there is also always an element of particularity about them: sacraments cannot be generic; they cannot come as a blanket offer; they cannot be celebrated at a distance or over the internet. When we say that marriage is a holy mystery given in creation we recognize that these three ‘goods of marriage’ are goods in themselves [...] sacramental theology should see no problem in the idea that marriage has an anthropological purpose. Something can be holy as well as useful; it can be a sacrament and have its own logic and good sense. Marriage is not self-indulgent or sentimental.<sup>356</sup>

Likewise, Hynes states that the Augustinian goods of marriage and the happiness of the family are the foundation of a healthy marriage; as such, a lack of any one of these notions, and all of which are in decline today, will negatively impact the strength of and the disposition towards the family.<sup>357</sup> The first Augustinian good provides the basis for responsible sex, procreation, and the raising of children in a household; and if sexual partners, whether married or not, are lacking the value of this first good, the conjugal life of the couple, as well of the well-

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more income, have access to better healthcare, share more household labor and resources, and enjoy an overall better quality of life. Children are also happier when they are raised in lasting marital households. Witte Jr., “The Goods and Goals of Marriage,” 1019-1020, 1068-1069.

<sup>350</sup> Witte Jr., “The Goods and Goals of Marriage,” 1029.

<sup>351</sup> Andrew Davison, *Why Sacraments?* (London: Society for Promoting Christian Knowledge Publishing, 2013): 11; and Witte Jr., “The Goods and Goals of Marriage,” 1029.

<sup>352</sup> Davison, *Why Sacraments*, 6, 10; and Witte, Jr., *From Sacrament to Contract*, 15.

<sup>353</sup> Davison, *Why Sacraments*, 24, 105-106.

<sup>354</sup> Davison, *Why Sacraments*, 104.

<sup>355</sup> Davison, *Why Sacraments*, 105.

<sup>356</sup> Davison, *Why Sacraments*, 111.

<sup>357</sup> Hynes, “A Family Reflection,” 107.



being of any child under their care, is in jeopardy.<sup>358</sup> The second Augustinian good provides a basis for a loyal relationship, wherein couples learn to acknowledge the other and to deal with any conflicts together through effort, communication, and support; and if partners are lacking in the value of fidelity, promiscuity is more likely to occur.<sup>359</sup> The third Augustinian good provides the basis for a lasting marriage wherein spouses, when necessary, make a strong effort to work through any hardships in order to sustain their marital bond, especially if children are involved; and if marital partners do not value the permanence attributed to the marriage union, separation is more likely to occur whether children are involved or not.<sup>360</sup>

Many religious and conservative groups also feel that traditional Christian values are simply lost in the current secular culture.<sup>361</sup> Marriage in the Christian tradition is understood as a holy vocation to be undertaken with the goal of family nurturement and salvation; whereas in secular culture marriage is a contractual agreement formed with various possible intentions, some of which might be selfish reasons.<sup>362</sup> The Catholic marriage tradition had, at the least, attempted to provide spouses, with or without children, a proper foundation for married life.<sup>363</sup> The difficulty now is in how our secular Western society might appropriate the ‘biblical and ecclesial traditions’ in a way that is approachable for different kinds of people.<sup>364</sup> Marriages and families in Western society today take on many dynamic forms; some married people today choose not to have children, some families will have children through modern fertilization technologies, some marriages will end in divorce, and some families will be comprised of homosexual relationships.<sup>365</sup> For Catholic marriage theology to be revisited by Western society today, the teachings of the early Church Fathers on the Scriptural texts attributed to marriage and the family, which became the doctrine of the Catholic Church, must be approached with an openness to reinterpretation and theological discourse.<sup>366</sup>

### *The Sanctity of Cultural and Sexual Fecundity*

Moralists tend to observe concrete human experiences when seeking to develop a theory of sexual anthropology or an ethical philosophy.<sup>367</sup> Catholic moralists, however, refer to a sexual anthropology and a code of ethics that was technically developed in ancient times, or is arguably not of human origin; namely, the Scripture and, in turn, the teachings of the early Church Fathers on the biblical texts.<sup>368</sup> The Catholic tradition has mostly retained the teachings of the early

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<sup>358</sup> Guindon, *The Sexual Creators*, 44; and Rowe, “Love, Homosexual Marriage, and the Common Good,” 272.

<sup>359</sup> Browning, *Marriage and Modernization*, 207-208; and Guindon, *The Sexual Creators*, 177.

<sup>360</sup> Witte Jr., “The Goods and Goals of Marriage,” 1031, 1037.

<sup>361</sup> Berlinerblau, *How To Be Secular*, xviii; Browning, *Marriage and Modernization*, 47; and Hynes, “A Family Reflection,” 109.

<sup>362</sup> Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 145.

<sup>363</sup> Barton, “Biblical Hermeneutics and the Family,” 12; and Taylor, *A Secular Age*, 143.

<sup>364</sup> Barton, “Kinship, Marriage and Family,” 22.

<sup>365</sup> Davison adds that, for some, the element of indissolubility that the sacramental quality instills in marriage union is frightening. The traditional natural law, consequently, also alienates the homosexual community. Barton, *The Family in Theological Perspective*, xii; Browning, *Marriage and Modernization*, 240; Davison, *Why Sacraments*, 114; and Witte, Jr., *From Sacrament to Contract*, 217.

<sup>366</sup> Browning, *Marriage and Modernization*, 49; and John Rogerson, “The Family and Structures of Grace in the Old Testament,” in *The Family in Theological Perspective* (London: T&T Clark, 1996): 41.

<sup>367</sup> Guindon, *The Sexual Creators*, 13.

<sup>368</sup> Barton, “Biblical Hermeneutics and the Family,” 3; and Guindon, *The Sexual Creators*, 13, 44.

Church Fathers today, with many scholars defending the principles of sacramental theology as defined in past centuries, including the Augustinian goods and traditional natural law theory, as absolute and perfectly relevant to contemporary Western society, despite the worldwide phenomenon of secularism and recent changes to both social and cultural norms in favor of pluralistic lifestyles.<sup>369</sup> The true meaning of the Scripture is always up for interpretation and it will always be subject to biases and discrimination by the reader or their ‘reading community’, as guided by God; this is a fact that is often denied.<sup>370</sup> Because for traditional Catholic Christians, such as fundamentalists and code moralists, the Scripture is considered to be the definitive manual for human identity and moral living, the Biblical texts were likely read in such a manner which interpreted God as having legislated about sexual ethics to a larger extent than is true.<sup>371</sup> The writers of the New Testament texts may have referred to Genesis (1: 28) because they wanted to encourage Christian spouses to produce offspring, who had to be heterosexual to have children since they lacked our modern fertilization technologies, in order for them to be raised Christian and to grow the faithful community which, at the time, was smaller than it is now.<sup>372</sup>

While written tradition is certainly a significant source for reflection and guidance on social conduct, considering it the only source for truth about sexuality, marriage, and the family presents far too many exegetical and contextual issues to properly foster meaning for all types of people today.<sup>373</sup> Guindon laments that Catholic moralists tend to consider the written tradition as evidence in itself and, consequently, many scholars who advocate for sacramental theology and the natural law do not thoroughly explain why the tradition argument is still justifiable today:

[...] the insights which are gained by this recourse to what it understands natural law to be are, in general, disappointingly vacuous. This is so much the case that most manuals do not even explain why the position they have presented makes sense. As heirs to impoverished traditions of natural law, prescriptive moralists understand this law not as the rational exigency of justice, truth, courage, etc., which, in a concrete historical situation, imposes itself upon reasonable minds, but as a kind of universal code which is performed in every mind and effectively acknowledged in every society. In such sexual ethics, therefore, natural law is conceived as an abstract codification of unalterable biological functions. Little do the champions of this model suspect that their idea of “immutable biological laws” does not pass the test of biological knowledge and that it is alien to contemporary biological theory.<sup>374</sup>

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<sup>369</sup> Cherry claims that ‘defenders of post-traditional social structures’, which value more liberal and non-biological norms for the family, including in vitro fertilization for either homosexual couples or single parents, fail to comprehend that all procreative action ‘must be set with the pursuit of the kingdom of God’ that can only be fulfilled by a heterosexual relationship. Giampietro argues that homosexual sex cannot be viewed as ‘marital’ or ‘procreative’ due to the biological differences in how their sexual activity can be performed, adding that homosexual unions are inherently immoral. Grobrien firmly states that sex is only ‘for procreation and for the fulfillment of sexual desire’ in a marriage between a man and a woman, as per the natural law. Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” 156-157; Giampietro, “Marriage and the Public Good,” 212, 220; and Grobrien, “Marriage and So-Called Civil Unions in Light of Natural Law,” 266, 268.

<sup>370</sup> Barton, “Biblical Hermeneutics and the Family,” 6.

<sup>371</sup> Guindon, *The Sexual Creators*, 5.

<sup>372</sup> Guindon also states that the New Testament does not explicitly discuss human reproductive functions. Jesus, in fact, only focuses on the indissolubility of marriage. Furthermore, none of the New Testament texts argue that it is ‘better to have children than not to have them’, but instead state that children born from Christians are blessed, must be raised as Christian, and should respect their parents. Deirdre Joy Good; Jenkins, Willis; Kittredge, Cynthia Briggs; Rogers, Eugene Fernand Jr. “A Theology of Marriage Including Same-Sex Couples,” *Anglican Theological Review* 93, no 1 (Winter 2011): 57-58, 67; and Guindon, *The Sexual Creators*, 44-45, 160.

<sup>373</sup> Barton, “Biblical Hermeneutics and the Family,” 5-6.

<sup>374</sup> Guindon, *The Sexual Creators*, 10.

A rigid support of doctrine, in turn, shrouds ‘all other intelligent discussion concerning responsible parenthood’ and marriage.<sup>375</sup> Scholars, for example, who state that homosexual unions violate the natural law but infertile couples do not by claiming that infertility is simply circumstantial or an unfortunate ‘mystery of God’s will’ not only subordinate a medical misfortune to theological hermeneutics but also overlook that the argument for a circumstantial or God willing state of, essentially, procreative impossibility could very well be extended to homosexual unions.<sup>376</sup> In that homosexual unions can nurture and raise children, can provide mutual affection and desire for one another, and share an ‘enduring commitment’ to each other, we can contend that homosexual couples are indeed sacramental bonds and, therefore, should be allowed to marry and raise children.<sup>377</sup> Children who are ‘the natural offspring of one partner’, whether raised by homosexual partners or not, can be nurtured and raised with traditional values, which should be considered good within the Christian community; that is, despite how the Catholic Church has responded to new family dynamics, any parent who raises their children as Christian is participating in ‘shared work’ for their community.<sup>378</sup> When marital goodness is cemented in ‘God’s will’ for humanity and the sacrament, the goods of marriage related to health and welfare get subordinated for the Catholic Christian moral conditions of covenant and the kingdom of God.<sup>379</sup>

Sexual ethics cannot be limited to genetics since human subjects are given the freedom to experience sexual life in different forms and behaviors.<sup>380</sup> A proper theory of ethics should be based on human sexual practice, not just testament; that is, any theory that is not developed in conjunction with practical ethics will ultimately be ‘devoid of normative value’ to the people who are sexually active since there will be nothing to relate to.<sup>381</sup> With our greater knowledge of the human condition and technological advances which support human flourishing, anyone who would continue to argue that reproductive functions define sexual activity and the right to marriage, particularly when arguing against homosexual partnerships, is simply being ‘ignorant’, and the defence of certain ancient principles is ‘meaningless’ in Western society today.<sup>382</sup> Human sexuality cannot be limited to bodily and reproductive functions, but also involves the sexual language of the individual, including the different ‘expressions, tonalities, emotions and sentiments’ that might be communicated and experienced by a person.<sup>383</sup> The sacramental theology of marriage and the family as strictly defined by the traditional Catholic view, therefore, has no vitality in Western society today; sex cannot be ‘morally permissible only within

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<sup>375</sup> Guindon, *The Sexual Creators*, 9.

<sup>376</sup> Browning, *Marriage and Modernization*, 209; Giampietro, “Marriage and the Public Good,” 212; and Grobien, “Marriage and So-Called Civil Unions in Light of Natural Law,” 269.

<sup>377</sup> Davison, *Why Sacraments*, 118; Good; et al., “A Theology of Marriage Including Same-Sex Couples,” 51-52, 56; and Guindon, *The Sexual Creators*, 175.

<sup>378</sup> Davison, *Why Sacraments*, 119.

<sup>379</sup> Browning, *Marriage and Modernization*, 209.

<sup>380</sup> Guindon, *The Sexual Creators*, 9, 12.

<sup>381</sup> Guindon, *The Sexual Creators*, ix.

<sup>382</sup> Newheiser notes that the New Testament never explicitly addresses heterosexual or homosexual unions in any specific way. The term ‘homosexual’ only makes an appearance in the 1946 Revised Standard Version of 1 Corinthians 6 and is likely a modern interpretive choice rather than a proper translation of the ancient Greek terms ‘malakos’ and ‘arsenokoitai’. Guindon, *The Sexual Creators*, 55; and David Newheiser, “Sexuality and Christian Tradition: Innovation and Fidelity, Ancient and Modern,” *Journal of Religious Ethics* 43, no. 1 (Spring 2015): 122, 127, 138.

<sup>383</sup> Guindon notes that the functions of human genitalia are multipurpose, similar to our other human parts; for example, the human mouth has other uses besides eating, such as talking and breathing, and, likewise, the functions of human genitalia have several uses. Guindon, *The Sexual Creators*, 23, 27, 34, 36, 47-48, 70.

marriage', it is 'irrational' for spouses to engage in sexual intercourse only to 'populate the earth', heterosexual unions are not the only 'normative' form of 'sexual behavior', and a marriage cannot offer 'no escape' from the contract.<sup>384</sup> In other words, in order for sacramental marriage theology to remain relevant today, the traditional Christian marriage and family values, especially those concerned with sexuality and reproduction, must become fundamentally accessible to all people, foster devotion and passion between different kinds of lovers and families, and these principles would need to be respected as vitally important in Western society as opposed to conveniently expendable.<sup>385</sup>

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<sup>384</sup> Guindon adds that the 'pro-life' argument against abortion and contraception is essentially immoral; parents who are unfit to raise children should not have them and, furthermore, overpopulation would cause greater problems for humanity. Giampietro, "Marriage and the Public Good," 212; Guindon, *The Sexual Creators*, 46, 51, 161; Reid, Jr., "The Augustinian Goods of Marriage," 478; and Witte, Jr., *From Sacrament to Contract*, 217.

<sup>385</sup> Guindon, *The Sexual Creators*, 44, 68.

## Conclusion

### Unresolved Tensions and Final Thoughts on the Role of Catholic Marriage Theology in the Secular Western World

The history of Christian marriage formation and law is a complex story comprised of disagreements and several reforms over the past two millennia.<sup>386</sup> The first chapter of this thesis explored marriage in Latin Christendom during classical antiquity and the Middle Ages, specifically tracing the development of a Christian marital process and the fundamental values which became attributed to the goods and goals of marriage in sacramental theology. In its earliest recognizable form, marriage was a secular practice subject to the civil law in the Latin West of the Greco-Roman World.<sup>387</sup> A marriage was only Christian if the spouses were baptized and married by a bishop, either in the home of the newlyweds or in the church.<sup>388</sup> After Christianity had gained legal status and was made the official religion of the Roman Empire by Emperor Theodosius in 380, however, the church and its followers set out to establish its presence and authority by way of a distinctly Christian legal marital practice.<sup>389</sup> This process was led by the Latin Church Fathers, most notably Saint Augustine, who put forward a conception of marriage as a holy vocation, or a call to ‘action’, as instructed by God through Scripture.<sup>390</sup> Marriage for Christians, in turn, became a monogamous practice between consenting spouses, a man and a woman, who agreed to join together in both a loyal and lifelong union with the goal of having children and nurturing a Christian family.<sup>391</sup> The patristic thoughts on marriage were integrated into a systematic sacramental marriage theology as the church established the legal competence of Christianity, giving the institute of marriage a natural purpose, a formal legal structure, and a spiritual inclination by the end of the Middle Ages.<sup>392</sup> It was the legal prominence of the church over marital processes which rendered this new marriage model as incontrovertible, and Western societies eventually began to enforce sacramental marriage theology, or the *lex divina*, as the marriage law of the state.<sup>393</sup>

The second chapter chronicled the reformation of what had become the normative Western marriage tradition throughout modernity and the contemporary age, which conformed with the sacramental marriage model. In reaction to the thriving position of the Catholic church and, particularly, its doctrine of indissolubility, new discourse emerged from Christian sectarian

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<sup>386</sup> Stephen C. Barton, “Kinship, Marriage and Family: Learning from Tradition.” *Colloquium* 50, no. 2 (Winter 2018): 4.

<sup>387</sup> Philip L. Reynolds, *Marriage in the Western Church: The Christianization of Marriage During the Patristic and Early Medieval Periods* (Boston: Brill, 2001): 121.

<sup>388</sup> Reynolds, *Marriage in the Western Church*, xix-xx.

<sup>389</sup> Barton, “Kinship, Marriage and Family,” 3; and John Chrysostom, *On Marriage and Family Life*, trans., Catherine P. Roth and David Anderson (New York: St. Vladimir’s Seminary Press, 1986): 7-8.

<sup>390</sup> Andrew Davison, *Why Sacraments?* (London: Society for Promoting Christian Knowledge Publishing, 2013): 24; and Reynolds, *Marriage in the Western Church*, 65.

<sup>391</sup> Philip L. Reynolds, *How Marriage Became One of the Sacraments: The Sacramental Theology of Marriage from its Medieval Origins to the Council of Trent* (Cambridge: Cambridge University Press, 2018): 3, 148 and Reynolds, *Marriage in the Western Church*, 65.

<sup>392</sup> Barton, “Kinship, Marriage and Family,” 11; and Reynolds, *How Marriage Became One of the Sacraments*, 29.

<sup>393</sup> Reynolds, *Marriage in the Western Church*, 153; and John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville: Westminster John Knox, 2012): 21, 30.

groups, philosophical theologians, and politicians on the proper process for marriage formation and dissolution in Western society, with many suggesting a reform of marital practice wherein marriage is both a civil and ecclesial institution.<sup>394</sup> The legal authority of the Church was also challenged by several Christian groups and thinkers, most notably by the Protestant Reformers during the sixteenth century, who had advocated for a model of marriage as social estate in conjunction with the civil law, and later by the Enlightenment thinkers of the eighteenth century, who had stressed a marriage model separated from religious influence which instead favored civil and equal rights for all.<sup>395</sup> By the end of the modern age, however, the sacramental marriage model began to be superseded by a contractarian model of marriage wherein the spouses managed their own marital union and its sustainability privately.<sup>396</sup> As the Church came under scrutiny for its rigid dogma and laws in a noticeably evolving social and cultural climate throughout the contemporary era, social traditions that were once confined to the Catholic Church, including marriage, developed secular alternatives in favor of individualism and sexual autonomy.<sup>397</sup> The rise of legal secularism, including the jurisprudential notion of separation of church and state, further resulted in considerable changes to traditional marriage law and, to some extent, the total rejection of Catholic sacramental theology in contemporary Western society, with Catholic marriage doctrine no longer commonly supported in U.S. courts by the mid-twentieth century.<sup>398</sup> Marriage practice today has effectively become a civil process once again, much like it was prior to the advent of modernity, but now it offers greater fundamental rights between spouses and better fosters religious pluralism in Western society, especially in North America.<sup>399</sup>

The third chapter considered the effects of secular culture on marriage and the family and, further, whether the values attributed to the Catholic marriage tradition could help to restore the interest and appeal of the institute of marriage today. Secularity has brought both positive and negative consequences to the welfare of marriage and the family in Western society; most families now benefit from greater shared wealth, healthcare, reproductive technologies, and live longer in general, but many marriages also end in divorce, less people are contracting marriage unions, and more children are being raised in poor, broken, or unconventional familial homes.<sup>400</sup> The loss of the traditional family is often considered a natural consequence of modernization and, in turn, secularization.<sup>401</sup> While many might contend that the changes supporting fundamental human rights in marriage and family dynamics have now been rightfully normalized in Western society, some argue that recent amendments have rendered the tradition of marriage devoid of

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<sup>394</sup> Witte, Jr., *From Sacrament to Contract*, 6-7, 42-43.

<sup>395</sup> Barton, "Kinship, Marriage and Family," 14; Don S. Browning, *Marriage and Modernization: How Globalization Threatens Marriage and What to Do About It* (Grand Rapids: Eerdmans, 2003): 23; and Witte, Jr., *From Sacrament to Contract*, 10, 197.

<sup>396</sup> Witte, Jr., *From Sacrament to Contract*, 11, 198.

<sup>397</sup> Roland H. Bainton, *What Christianity Says About Sex, Love and Marriage* (New York: Association Press, 1957): 108; Taylor, *A Secular Age*, 22; and Witte, Jr., *From Sacrament to Contract*, 196.

<sup>398</sup> Jacques Berlinerblau, *How To Be Secular: A Call to Arms For Religious Freedom* (Boston: Houghton Mifflin Harcourt, 2012): xiii; and Jenna Reinbold, "Sacred Institutions and Secular Law: The Faltering Voice of Religion in the Courtroom Debate over Same-Sex Marriage," *Journal of Church and State* 56, no 2 (Spring 2014): 258-259, 267.

<sup>399</sup> Berlinerblau, *How To Be Secular*, xxii; Witte, Jr., *From Sacrament to Contract*, 11-13, 195.

<sup>400</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 108; Stephen C. Barton, *The Family in Theological Perspective* (London: T&T Clark, 1996): xi, xv; Browning, *Marriage and Modernization*, ix, 4, 8; and Witte, Jr., *From Sacrament to Contract*, 196, 214.

<sup>401</sup> Browning, *Marriage and Modernization*, 10, 37; and André Guindon, *The Sexual Creators: An Ethical Proposal for Concerned Christians* (Maryland: University Press of America, 1986): 102.

essential Catholic values necessary to nurture and sustain the marital relationship.<sup>402</sup> The Christianized form of marriage and the family, however, is incompatible with contemporary Western ideals.<sup>403</sup> The ideal model of marriage and the family for contemporary Western society might benefit from values found in both secular culture and religious doctrine, promoting a more virtuous model of marriage suitable for all types of people, religious or not.<sup>404</sup> The secular and Christian moral ethos concerning marriage, the family, and sexual ethics, therefore, must converge in order to re-establish the conditions which allowed marriages and families to prosper in the past, but now made to function with the recent social and cultural changes in the contemporary Western world.<sup>405</sup> For this reform to occur, however, secular Western society must be open to acknowledging some of the more fundamental Catholic marriage and family values as indispensable; namely, the Augustinian goods.<sup>406</sup> Furthermore, if Catholic sacramental marriage theology is to be reexplored by contemporary Western thinkers and citizens with more openness then, in turn, traditional Catholics must also be open to revisiting some of its more antiquated and likely misconstrued principles to better support and nurture the new marriage, family, and sexual dynamics that exist today.<sup>407</sup>

In reflecting on the significant changes to the institute of marriage in the Western church and wider society throughout the past two millennia, this thesis aimed to establish whether traditional Catholic marriage theology might still be compatible with or even beneficial to marital and family ideals today. The thesis statement was twofold: first, how should Catholicism address secular changes as they impact the traditional marriage and family structure; and second, what parts of the Catholic marriage tradition can be accepted in contemporary Western marriages?<sup>408</sup> Marriage has been reformed to be available to interracial, interfaith, and same-sex couples, all the while Catholics have the option to abide by the sacramental marriage tradition privately.<sup>409</sup> The recent changes to sexual ethics, marriage, and the family has, however, separated the Catholic church and its traditional followers from much of the social and legal norms of Western society today.<sup>410</sup> The normative Western marriage tradition today has come to acknowledge the dynamisms of marital and family life; that marriage is essentially an ‘evolving institution’ which must adapt to and indicate changes in societal norms, morals, and public opinions, but also has come to reject traditional Catholic marriage values, with many spouses turning to infidelity, dissolving their marital union, and neglecting their children or not having them at all.<sup>411</sup> The Catholic Western tradition, on the other hand, has remained steadfast to its foundational marital and family values, believing the ‘nuclear family’ comprised of a husband, wife, and children to be the most optimum structure and that marriage should be a permanent bond between loyal

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<sup>402</sup> Barton, “Kinship, Marriage and Family,” 23; Browning, *Marriage and Modernization*, ix-x; and Emerson Hynes, “A Family Reflection,” *Orate Fratres* 23, no 3 (Jan 1949): 109.

<sup>403</sup> Berlinerblau, *How To Be Secular*, xviii; Browning, *Marriage and Modernization*, 181; and Guindon, *The Sexual Creators*, 4.

<sup>404</sup> Browning, *Marriage and Modernization*, x, 181, 224.

<sup>405</sup> Browning, *Marriage and Modernization*, 94; and Guindon, *The Sexual Creators*, 32.

<sup>406</sup> Guindon, *The Sexual Creators*, 44, 68.

<sup>407</sup> Browning, *Marriage and Modernization*, 49; and John Rogerson, “The Family and Structures of Grace in the Old Testament,” in *The Family in Theological Perspective* (London: T&T Clark, 1996): 41.

<sup>408</sup> Barton, “Kinship, Marriage and Family,” 6, and Browning, *Marriage and Modernization*, xiii.

<sup>409</sup> Berlinerblau, *How To Be Secular*, xxii; Witte, Jr., *From Sacrament to Contract*, 195, 211-213; and Susan Wood, “The Marriage of Baptized Nonbelievers: Faith, Contract, and Sacrament,” *Theological Studies* 48, no 2 (Summer 1987): 280, 284.

<sup>410</sup> Guindon, *The Sexual Creators*, 4.

<sup>411</sup> Barton, “Kinship, Marriage and Family,” 19; and Witte, Jr., *From Sacrament to Contract*, 218.

spouses.<sup>412</sup> Both sides also possess different sexual ethics which fundamentally shape their respective marital and family values; secular society accepts same-sex partners, fertilization technologies, divorces, and other unconventional marital or family forms, while traditional Catholics reject most, if not all, of these progressive developments.<sup>413</sup> The institute of marriage within the Catholic tradition is certainly good in its own right, but it has become necessary to support more diverse forms of marriage and the family as fundamentally equal to the socially commended nuclear family.<sup>414</sup>

If the institute of marriage is to be appealing and accessible to different types of people, then the foundation of marriage and the family life must consist of principles and values found in our Western religio-cultural traditions; that said, establishing a structure which all of Western society can concede will continue to be difficult without a step towards reconciliation from all sides.<sup>415</sup> Stephen C. Barton contends that marriage and the family must be at the forefront of our current discussions regarding the welfare of both individual people and Western communities:

[...] given that marriage, as the sanctioned coming together of two, is a process, a practice, a tradition, and an institution of pivotal social significance, it is crucial that our conversation about marriage is ongoing. Precisely because marriage is “one of the great mediators of individuality and community, revelation and reason, tradition and modernity,” its forms and meanings must inevitably be a matter of ongoing assessment, enrichment and, where necessary, modification [...] The fact that even the *definition* of marriage is evolving (in certain parts of the world, at least), to embrace those who self-identify as gay, shows how potent is the role marriage plays in mediating the meanings and forms of society, and how important, therefore, it is for Christian voices, in all their plurality, to be heard.<sup>416</sup>

Alienating religious thought entirely from the institution of marriage will only serve to build greater tension with secularist thought rather than leading to the joining of the two polarizing sides in solidarity, further making the process of coming to some form of consensus an arduous effort long-term.<sup>417</sup> The Catholic marriage tradition, in turn, must let go of its cherished vision of the nuclear family and demonstrate more welcoming attitudes towards the new dynamic forms of the family which exist today.<sup>418</sup> Catholicism must instead address secularity with greater compromise, while secular Western society must reapproach traditional Catholic values with less stigma.<sup>419</sup> Therefore, tending to the ‘modern problem of divorce’, as well as other marital and

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<sup>412</sup> Witte, Jr., *From Sacrament to Contract*, 13, 30, 218.

<sup>413</sup> Browning, *Marriage and Modernization*, 56; Mark J. Cherry, “The Consumerist Moral Babel of the Post-Modern Family,” *Christian Bioethics* 21, no 2 (Summer 2015): 147, 157; Anthony E. Giampietro, “Marriage and the Public Good,” *Christian Bioethics* 13, no. 2 (Summer 2007): 212; Gifford Andrew Grobien, “Marriage and So-Called Civil Unions in Light of Natural Law,” *Concordia Theological Quarterly* 77, no. 3 (Fall 2013): 270; Charles N. Rowe, “Love, Homosexual Marriage, and the Common Good,” *The National Catholic Bioethics Quarterly* 11, no. 2 (Summer 2011): 269, 273; and Michael Waldstein, “Children as the Common Good of Marriage,” *Nova Et Vetera* 7, no 3 (Summer 2009): 703.

<sup>414</sup> Browning, *Marriage and Modernization*, 94.

<sup>415</sup> Barton, “Kinship, Marriage and Family,” 23; Browning, *Marriage and Modernization*, 31, 224; Hynes, “A Family Reflection,” 109; and Witte, Jr., *From Sacrament to Contract*, 215.

<sup>416</sup> John Witte, “The Meanings of Marriage,” *First Things* 126 (2002): 30, in Barton, “Kinship, Marriage and Family,” 22.

<sup>417</sup> Browning, *Marriage and Modernization*, 179-181; and Reinbold, “Sacred Institutions and Secular Law, 250-251.

<sup>418</sup> John Rogerson, “The Family and Structures of Grace in the Old Testament,” 41.

<sup>419</sup> Browning, *Marriage and Modernization*, 49; and Guindon, *The Sexual Creators*, 44, 68.



family disruptions affecting contemporary Western society, requires both traditional marriage formation and civil marriage formation to be open to reformation.<sup>420</sup> There are some Christians today who acknowledge remarriage but still promote the permanence of a marriage union; this, perhaps, might be viewed as both a secular and Catholic understanding of the sacrament which could be better integrated into Western society.<sup>421</sup>

The pattern of marital formation today is that if a couple loves each other, or at the least share enough in common, then they should get married, and if they come to no longer love each other or grow apart in tastes, then they should separate.<sup>422</sup> As such, a marriage is commonly formed and dissolved based on the presence of affection without any thought to the long-term agreement that the newlyweds have signed up for.<sup>423</sup> A marriage, however, should not be formed solely based on the immediate love and commonality shared between a couple, but the partners must consider the sustainability of their relationship long-term prior to entering into the marital union.<sup>424</sup> In a move to prevent the rise in divorce, cohabitation is perhaps a good first step towards the process of seeking a marital union; people who cohabit tend to be ‘experimenting’ the sustainability of their relationship which facilitates the goods of fidelity and permanence in the relationship, and so the Catholic church might reconsider such arrangements ideal for couples today and then, in time, could encourage the couple to form a marriage contract.<sup>425</sup> Cohabitation might be between same-sex couples as well, with some who were raised in a Christian household and continue to identify as Christian themselves, and such couples should be extended the same encouragement towards forming a marital union.<sup>426</sup> Welcoming same-sex marital unions and families does not involve choosing between ‘recapitulating the past and accommodating the present’, but should instead be understood as a move to reconcile the two.<sup>427</sup> The goal of the Catholic church has always been to encourage lasting marital unions and to raise children as good Christians, as it is taught in Scripture; therefore, the institute of marriage should be extended to all people in order to better promote the Catholic marriage tradition to Western society today, and all people should in turn be invited to partake in the Catholic faith.<sup>428</sup>

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<sup>420</sup> Witte, Jr., *From Sacrament to Contract*, 218.

<sup>421</sup> Andrew Davison, *Why Sacraments?* (London: Society for Promoting Christian Knowledge Publishing, 2013): 29.

<sup>422</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 106-107.

<sup>423</sup> Witte, Jr., *From Sacrament to Contract*, 214.

<sup>424</sup> Bainton, *What Christianity Says About Sex, Love and Marriage*, 107.

<sup>425</sup> Guindon, *The Sexual Creators*, 87-88.

<sup>426</sup> Davison, *Why Sacraments*, 115; and Deirdre Joy Good; Jenkins, Willis; Kittredge, Cynthia Briggs; Rogers, Eugene Fernand Jr. “A Theology of Marriage Including Same-Sex Couples,” *Anglican Theological Review* 93, no 1 (Winter 2011): 56.

<sup>427</sup> David Newheiser, “Sexuality and Christian Tradition: Innovation and Fidelity, Ancient and Modern,” *Journal of Religious Ethics* 43, no. 1 (Spring 2015): 139.

<sup>428</sup> Deirdre et al, “A Theology of Marriage Including Same-Sex Couples,” 56-58, 67.

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