

**CANONICAL CONSIDERATIONS IN PASTORAL CARE OF PERSONS IN MARRIAGES
BETWEEN ROMAN CATHOLICS AND BUDDHISTS IN THAILAND**

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ABSTRACT

Marriage is an institution based on natural law. Every person has the natural right to marriage which is, however, affected by cultural and social conditions. The pastors of the Church, therefore, have to make every effort to understand the particularity of situations within which marriage and family are lived today and respond accordingly through their pastoral action.

Thailand is considered a Buddhist country due to the fact that the vast majority of its population is Buddhist. Most marriages celebrated in the Catholic Church are non-sacramental because a Buddhist is the spouse of the Catholic party. Canon 1086 of the 1983 Code states that due to the impediment of disparity of worship, a marriage between a person who was baptized in the Catholic Church or received into it and a non-baptized person is invalid. A dispensation from this impediment must be granted by the competent authority in order for the union to be valid. The conditions stated in cc. 1125–1126 must be taken into account for a dispensation to be granted.

The thesis identifies the actual pastoral problems faced by persons in marriages with the disparity of worship and canonical questions faced by Church authorities; it also proposes canonical-pastoral responses to such cases. The first chapter explains in a systematic way the magisterial teaching of the Catholic Church on marriage in the modern world and the pertinent norms of the Code of Canon Law. Chapter Two is devoted to a brief study of the Buddhist teaching on marriage and of the Thai civil marriage laws. A comparison between the Catholic and the Buddhist understanding of marriage is presented in its conclusion. Chapter Three analyzes the principles governing

marriage according to the 1983 Code of Canon Law, with comparison to the 1917 Code as needed. This chapter focuses especially on interreligious marriage. Chapter Four deals with the pastoral care of those Catholics who enter marriage with Buddhists in Thailand. Marriage preparation programs, the pre-marital investigation, the obligations of the Catholic party in a mixed marriage along with concrete pastoral solutions are given attention in this chapter.

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ABBREVIATIONS

AA	SECOND VATICAN COUNCIL, Decree on the Apostolate of Lay People <i>Apostolicam actuositatem</i>
AAS	<i>Acta Apostolicæ Sedis, Commentarium officiale</i>
AG	SECOND VATICAN COUNCIL, Decree on the Church's Missionary Activity <i>Ad gentes</i>
AL	FRANCIS, Post-Synodal Apostolic Exhortation on Love in Family <i>Amoris lætitia</i>
ASS	<i>Acta Sanctæ Sedis</i>
BEF	<i>Boletín Eclesiástico de Filipinas, Manila</i>
c.	canon
CBCT	Catholic Bishops' Conference of Thailand
cc.	canons
CCCB	Canadian Conference of Catholic Bishops
CCEO	<i>Codex canonum Ecclesiarum orientalium, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione auctus</i>
CCLA	E. CAPARROS et al. (eds.), <i>Code of Canon Law Annotated</i>
CCLS	Canadian Canon Law Society
CD	SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops in the Church <i>Christus Dominus</i>
CIC/17	<i>Codex iuris canonici, Pii X Pontificis Maximi iussu digestus</i>
CIC	<i>Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus</i>
CLD	<i>Canon Law Digest</i>
CLSA	Canon Law Society of America
CLSA Comm1	J.A. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), <i>The Code of Canon Law: A Text and Commentary</i>

<i>CLSA Comm2</i>	J.P. BEAL, J. A. CORIDEN, and T.J. GREEN (eds.), <i>New Commentary on the Code of Canon Law</i>
CLSANZ	Canon Law Society of Australia and New Zealand
<i>CLSAP</i>	Canon Law Society of America Proceedings
CLSGBI	Canon Law Society of Great Britain and Ireland
<i>Exegetical Comm</i>	A. MARZOA, J. MIRAS, RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), <i>Exegetical Commentary on the Code of Canon Law</i>
<i>FC</i>	JOHN PAUL II, Apostolic Exhortation on the Role of the Christian Family in the Modern World <i>Familiaris consortio</i>
<i>FLANNERY1</i>	A. FLANNERY (gen. ed.), <i>Vatican Council II: The Conciliar and Post Conciliar Documents</i> , vol. 1
<i>FLANNERY2</i>	A. FLANNERY (gen. ed.), <i>Vatican Council II: More Post Conciliar Documents</i> , vol. 2
<i>GS</i>	SECOND VATICAN COUNCIL, Pastoral Constitution on the Church in the Modern World <i>Gaudium et spes</i>
<i>INT</i>	<i>INTAMS Review</i> , Brussels
<i>J</i>	<i>The Jurist</i>
<i>LG</i>	SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church <i>Lumen gentium</i>
<i>Mem</i>	<i>Memorias</i> , Asociación Mexicana de Canonistas, Jalisco
NCCB	National Conference of Catholic Bishops (of the USA – prior to 1 July 2001)
<i>PCF</i>	<i>Philippine Canonical Forum</i> , Manila
<i>SC</i>	SECOND VATICAN COUNCIL, Constitution on the Sacred Liturgy <i>Sacrosanctum concilium</i>
<i>UR</i>	SECOND VATICAN COUNCIL, Decree on Ecumenism <i>Unitatis redintegratio</i>
USCC	United States Catholic Conference (prior to 1 July 2001)

USCCB	United States Conference of Catholic Bishops (since 1 July 2001)
<i>Vid</i>	<i>Vidyajyoti</i> , Delhi

GENERAL INTRODUCTION

Thailand is considered a Buddhist country due to the fact that the vast majority of its population is Buddhist. Recent census numbers indicate that the demographics of the country of about 67 million people are as follows: 95% is Buddhist, 4% is Muslim, and the remaining 1% includes Christians and other religious groups such as Hindus and Taoists. According to the marriage statistics record, published by the Catholic Bishops' Conference of Thailand in 2017, roughly 34% of all marriages celebrated in the Catholic Church were sacramental, while 66% were entered into with a dispensation from the impediment of disparity of worship. Most of the latter involved a Buddhist as the spouse of the Catholic party.¹

Our modern understanding of marriage in the Catholic Church is presented in the documents of the Second Vatican Council and the documents issued thereafter. The teaching contained therein describes the nature of marriage, its essential elements and properties. This teaching has been substantially incorporated into the canons of the 1983 Code of Canon Law and the 1990 Code of Canons of Eastern Churches. Canon 1086 of the 1983 Code states that due to the “impediment of disparity of cult”² any marriage contracted between a person baptized in the Catholic Church or received into it and a non-baptized person is invalid. A dispensation must, therefore, be granted by the competent authority in order to contract a valid union. The conditions under which such a dispensation is to be granted are stated in cc. 1125–1126.

¹ CATHOLIC BISHOPS' CONFERENCE OF THAILAND, EPISCOPAL COMMISSION FOR PASTORAL FAMILY, *The Marriage Statistic Record* in 2017.

² Another translation of this term is “disparity of worship” which will be used in the thesis except for direct quotes from the respective sources.

The Catholic Church in Thailand issued norms governing the preparation for and celebration of marriage, including marriages between Catholics and Buddhists. These norms were issued by the Catholic Bishops' Conference of Thailand (CBCT) and promulgated in 1992.³ In 2015, the CBCT held the First Plenary Council of Thailand which focused on the family and the pastoral challenges due to an increase of the number of marriages involving the dispensation from the impediment of the disparity of worship.

Decree no. 24 of the Council states:

“The domestic Church” is the most important starting point for the New Evangelization. The family is not just a small unit to which the Church must provide pastoral care; rather it must be the place in which Christians first learn to live the faith together in diversity. It is there that parents and the elderly pass on the faith and the culture, give good example, and provide vocational formation to their children. The Church must give great importance to preparation for family life, especially in these times when there is an increase of marriages with disparity of cult. For families in which there are sacramental impediments and improper legal form, the Church must quickly follow the process the Church has established in order to bring them back to the parochial community where they may become actively involved in the New Evangelization.⁴

As the number of the marriages between Catholics and Buddhists continues to increase in Thailand, the Catholic Church needs to focus on providing appropriate pastoral care of the couples in such unions, and especially on suitable marriage preparation of the future spouses.

During the past several years, I have been involved in tribunal ministry and have been in charge of preparing marriage courses in the Archdiocese of Bangkok. This pastoral ministry drew my attention particularly to the problems which Catholics face

³ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 11: Preparation and Investigation before Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992, in Appendix 1, 265; ID., Decree no. 12: Minimum Age for Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992, in Appendix 2, 266; ID., Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992, in Appendix 3, 267.

⁴ In CATHOLIC BISHOPS' CONFERENCE OF THAILAND, *Decree of the Plenary Council of the Catholic Church in Thailand A.D. 2015: Christ's Disciples Living the New Evangelization*, Bangkok, CBCT, 2017, 26.

when they choose to marry Buddhists. In my experience, many of the young Thai Catholics and Buddhists who are interested in getting married also want to live a proper, happy marriage and raise a healthy family. The lack of understanding of Christian marriage by the Buddhist party, and the lack of proper pastoral and spiritual guidance often result in the failure of young couples to respect the juridical requisites governing interreligious marriage. I have come to know wonderful young people with good intentions who lack proper knowledge of the demands of Christian marriage. For instance, many Buddhists who desire to marry Catholics though bound by a valid prior bond of legitimate marriage think that civil divorce gives them freedom to marry again. Also, they do not consider marriage a lifelong commitment (permanent *consortium totius vitae*) and expect that they can marry as many times as they desire. Another very common issue the couples in interreligious marriages face is the question of religious worship. This indeed greatly affects the couples' daily lives as the demands of both religions profoundly differ in this regard.

In fact, multiple practical problems arise in such interreligious marriages. Catholic parties after they get married sometimes are not allowed to practice their faith; for instance, they are not permitted to go to church or have prayer rooms/spaces in their house. The Buddhist party, especially if this is the husband, may maintain extramarital relationships: Buddhists do not consider concubinage a sin, and a Catholic wife may not know about the other women. Also, the Buddhist party may not allow children born of such a union to be baptized, contrary to the obligations of the Catholic party stipulated in cc. 1125–1126 CIC, regarding baptism and Catholic education of these children.

The principal aim of this project is to identify the pastoral problems faced by

marriages/families in disparity of worship situations as well as the canonical questions faced by Church authorities and propose appropriate canonical-pastoral responses to them.

There are several major studies on the pastoral and juridical norms for marriage between Catholics and Buddhists. However, none of them has addressed the complex pastoral problems associated with marriages between Catholic and Buddhists in Thailand. Therefore, this study differs from others in several ways. It explains the theological foundations, especially the conciliar and post-conciliar documents upon which the canons on marriage in the 1983 Code are built as well as the recent developments in canonical discipline and praxis. It also seeks to explain how Buddhist marriage teaching relates to Thai custom and civil marriage law. The study examines the requirements for dispensation from the marriage impediment of disparity of worship for Catholic-Buddhist marriages in the Thai context. Finally, this work determines some more practical canonical and pastoral answers for Catholic-Buddhist families in Thailand.

The study is divided into four chapters. The first chapter pulls together in a systematic way the official teaching of the Catholic Church on marriage. The principal sources of this synthesis are conciliar and post-conciliar documents and other magisterial teaching on the subject matter. This is followed by an analysis of the canonical principles found in the 1983 Code of Canon Law on the nature, essential elements and properties of marriage.

Chapter Two is devoted to a brief study of the Buddhist teaching on marriage. According to Buddhist understanding, marriage is not a sacred reality but a secular contract of partnership. Polygamy and divorce are acceptable to Buddhists, but present

Thai culture opts for monogamy, in accordance with the civil laws of the country. A comparison between Catholic and the Buddhist understandings of marriage is an important part of this chapter.

Chapter Three analyzes the canonical principles governing marriage, specifically interreligious marriage, found in the 1983 Code of Canon Law. The chapter focuses on the meaning and the interpretation of c. 1086, with specific attention to the Catholic-Buddhist context. Because the Church foresees a danger to the faith of a Catholic entering into an interreligious-marriage, it stipulates in cc. 1125–1126 certain conditions that must be met before the requested dispensation can be granted. Although most Catholics brought up according to the teachings of the Church will remain faithful to their faith, they face serious challenges due to the ability of the Church to provide proper pastoral care for them (cf. cc. 1063–1064). These challenges are addressed and some remedies proposed.

The fourth chapter deals specifically with pastoral care for Catholics who marry Buddhists in Thailand. It addresses the need to make the couples aware of the sacred nature of the marital union between a man and a woman and the beauty of married life, as well as the responsibilities of the parties towards each other and towards their children; this instruction is offered during the course of pastoral preparation for the couple prior to the celebration of their marriage. Concrete suggestions for pastoral solutions that could be offered by the Church authorities once such a marriage has been celebrated, aimed at helping Catholics live faithfully and peacefully in their Catholic faith, with the involvement and help of their Buddhist spouses will also be proposed. The difficulty for the Catholic party to fulfill their obligation to see that all the children born of a mixed

marriage are baptized and provided with an appropriate Catholic upbringing, will also be given attention in this chapter.

The scope of this research is limited to the canonical discipline of the Latin Church. References to the Code of Canons of Eastern Churches will only be made when deemed necessary or relevant.

It is our hope that our research will be useful to the Catholic Church in Thailand, especially for those who are involved with couples in a marriage entered into with a dispensation from the impediment of disparity of worship. Although Catholics are almost a negligible minority in Thailand, it is the responsibility of the Church to provide appropriate pastoral care to them with regard to every aspect of their spiritual life. Moreover, it may be hoped that families in a healthy and happy marriage will provide a unique opportunity to share the Good News with those who do not profess the same faith.

CHAPTER ONE
THE TEACHING OF THE CATHOLIC CHURCH ON MARRIAGE
IN THE MODERN WORLD

Introduction

Marriage is one of seven sacraments of the Catholic Church. The key questions to be asked therefore are: What are the essential elements of the Christian doctrine on marriage? What are the substantial features of an authentic theology of marriage? What is the role of existential customs and experience in defining or refining the basic understanding of marriage? A researcher of this topic is faced with the multiplicity of sources, magisterial and otherwise, as the Church's understanding of marriage has developed over time.¹

The Catechism of the Catholic Church opens the section on sacramental marriage stating that, "[t]he matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole life, is by its nature ordered toward the good of the spouses and the procreation and education of offspring; this covenant between baptized persons has been raised by Christ the Lord to the dignity of a sacrament."² Therefore, a valid marriage between two baptized persons is necessarily

¹ See T.P. DOYLE, "The Theology of Marriage: Where We Are Today," in *Studia canonica*, 19 (1985), 82; see also B. COOKE, "Historical Reflection on the Meaning of Marriage as Christian Sacrament," in C.E. CURRAN and J.H. RUBIO (eds.), *Marriage*, Readings in Moral Theology, no. 15, New York, Paulist Press, 2009, 8–9.

² *Catechismus Ecclesiae catholicae*, 2nd ed., Libreria editrice Vaticana, 1997, no. 1601, English translation *Catechism of the Catholic Church*, Ottawa, Publications Service, CCCB, 1994 (=CCC), 400. See also *Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus*, Libreria editrice Vaticana, 1989, English translation *Code of Canon Law: Latin-English Edition, New English Translation*, prepared under the auspices of the CLSA, Washington, DC, CLSA, 1999, canon 1055, §1. All references to the canons of the 1983 Code will be styled "c." for canon and "cc." for canons, followed by the canon number(s).

a sacrament. Nevertheless, as Cormac Burke explains, “[m]arriage is a natural reality and a part of God’s creation. At its institution, God endowed it with its essential natural characteristics: a union between one man and one woman which is exclusive, permanent, and open to life.”³

Official teaching of the Church leads the faithful to a deeper understanding of the meaning of marriage and family. The expectation of the Church pastors is that these teachings, if understood and assimilated by each couple especially before entering into marriage and at the beginning of their life together, would make their marriages more meaningful, fulfilling and valuable.

1.1 – Conciliar and Post-Conciliar Documents on Marriage

There are several documents of the Second Vatican Council and afterward that are relevant to the development of the theology and canon law on marriage. As it would have been impossible to present the whole spectrum of the Church’s official teaching in this regard, the conciliar and post conciliar documents: the Dogmatic Constitution on the Church *Gaudium et spes*, encyclical letter *Humanae vitae*, two post-synodal exhortations *Familiaris consortio* and *Amoris laetitia* have been chosen as they embrace a decisively personalistic approach to marriage.

The foundations for a new approach to understanding marriage were laid in the Dogmatic Constitution on the Church *Lumen gentium*,⁴ which asserted the dignity of the People of God and stated that all are called to holiness:

³ C. BURKE, *Theology of Marriage: Personalism, Doctrine and Canon Law*, Washington, DC, Catholic University of America, 2015, 1–2. Cf. Gn 1:27–28, 2:18–24; see also CCC, nos. 163–165, 45.

⁴ SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964 (= LG), in *Acta Apostolicae Sedis, Commentarium officiale*, Typis polyglottis Vaticanis

[...] all the faithful of Christ of whatever rank or status, are called to the fullness of the Christian life and to the perfection of charity [...]. [...] In order that the faithful may reach this perfection, they must use their strength accordingly as they have received it, as a gift from Christ. They must follow in His footsteps and conform themselves to His image seeking the will of the Father in all things. They must devote themselves with all their being to the glory of God and the service of their neighbor.⁵

The vocation of married persons has its distinctive place among other states of life in the Church, therefore “[C]hristian married couples and parents should follow their own proper way, should support one another in grace all through life with faithful love, and should train their children (lovingly received from God) in Christian doctrine and evangelical virtues.”⁶

In particular, the conciliar teaching on marriage refers to three particular aspects: marriage as a covenant, the importance of conjugal love, and the community of conjugal life.⁷

1.1.1 – The Pastoral Constitution on the Church in the Modern World *Gaudium et spes*: Marriage Covenant and Marriage Contract

Pastoral Constitution *Gaudium et spes*⁸ served as one of the basic sources of renewal of marriage law after the Second Vatican Council. This conciliar document, after elucidating magnificently on the dignity of the human person and redemptive role of the

(=AAS), 57 (1965), 5–75, English translation in A. FLANNERY (gen. ed.), *Vatican Council II: The Conciliar and Post-Conciliar Documents*, vol. 1, new rev. ed., Northport, NY, Costello Publishing Co., 1998 (=FLANNERY1), 350–426.

⁵ LG, no. 40, in AAS, 57 (1965), 44–45, FLANNERY1, 396–398.

⁶ LG, no. 41, in AAS, 57 (1965), 45–47, FLANNERY1, 398–400. See L. ÖRSY, *Marriage in Canon Law: Texts and Comments, Reflections and Questions*, Wilmington, DE, Michael Glazier, Inc., 1986, 36.

⁷ See F.G. MORRISEY, “Revising Church Legislation on Marriage,” in *Origins*, 9 (1979–1980), 211.

⁸ SECOND VATICAN COUNCIL, Pastoral Constitution on the Church in the Modern World *Gaudium et spes*, 7 December 1965 (=GS), in AAS, 58 (1966), 1025–1115, English translation in FLANNERY1, 903–1001.

human person in the world, presents, in its nos. 47–52,⁹ certain key points of Church doctrine on the nature of marriage.¹⁰ Marriage is presented as a conjugal covenant established by God and subject to His law, a union of persons in love and fidelity for the good of husband and wife and their children, and an indissoluble covenant between persons in a marriage that is an image of love between Christ and the Church.¹¹

An analysis of the history of the use of terms “contract” and “covenant” in the development of the Catholic theology of marriage points to the fact that in the twelfth century “contract” became the term used for describing the canonical reality of marriage,¹² while until the high scholastic period the preferred term to address the reality of marriage was “covenant” (*foedus*), understood as “a solemn agreement between nations, peoples, or individuals effecting a relationship that is binding and inviolable.”¹³

While comparing the meaning of and difference between these two concepts, contract and covenant, Palmer states:

Covenant (*foedus*) is as expansive and as all-embracing as contract is restrictive and limiting [...]. Contracts can be broken by mutual agreement, by failure to live up to the terms of contract, by civil intervention. Covenants are not broken; they are violated when there is breach of faith on the part of either or both of the covenanters.¹⁴

⁹ See GS, nos. 47–52, in AAS, 58 (1966), 1067–1074, *FLANNERY1*, 949–957.

¹⁰ See A. MENDONÇA, “The Theological and Juridical Aspects of Marriage,” in *Studia canonica*, 22 (1988), 266.

¹¹ See GS, no. 48–50, in AAS, 58 (1966), 1067–1072, *FLANNERY1*, 950–954.

¹² See A. GAUTHIER, *Roman Law and Its Contribution to the Development of Canon Law*, Ottawa, Faculty of Canon Law, Saint Paul University, 1996, 41. “It must be noted that the fact of classifying marriage as a contract became possible with the canonists by reason of their very notion of a “contract.” In fact, they did not see in the contract only a source of *obligatio* in the strict sense of Roman law (the relation between a creditor and a debtor), but more widely as something practically identified with that of “pact,” “*consensus duorum in idem*.” Moreover, the notion of contract enabled them to make use of the Roman analysis of the elements of the consent involved in contracts, but now in the field of marriage, thus supplying the basis for juridical declarations of nullity of marriages null by defect of consent. For instance, the canonical doctrine on the influence of error, of *metus*, of condition on the validity of marriage has made an important use of categories borrowed from the Roman civil law on contracts” (*ibid.*, 42).

¹³ See T. BUCK, “*Gaudium et spes* and Marriage: A Conjugal Covenant,” in *Australian Catholic Record*, 89 (2012), 449.

¹⁴ P.F. PALMER, “Christian Marriage: Contract or Covenant?” in *Theological Studies*, 33 (1972), 619.

Palmer stresses that contracts deal with things or goods and services for a specific time period and can be broken. Consequently, contracts belong to secular reality and the State is their guarantor, whereas covenants are sacred pacts belonging to sacred reality and their witness and guarantor is God himself. Indeed, the notion of covenant in the documents of Vatican II refers to the relationship between God and Israel, Christ and the Church, and between the spouses in marriage. The covenantal aspect of the marriage relationship belongs to the nature of marriage: an unbreakable union wherein Christ encounters and is in communion with Christian spouses, “modeled on Christ’s own union with the Church.”¹⁵ From the beginning God created man as male and female, thus by nature man is a social being and enters into relations with others in order to fulfill one’s individual and social role in the universe.¹⁶

While the 1917 Code of Canon Law¹⁷ referred to marriage in terms of a contract (*contractus*), with the hierarchically ordered ends of marriage, the procreation and education of offspring being the primary end and mutual help and remedy for concupiscence the secondary one,¹⁸ an important point of reference in the historical development of the doctrine on marriage is found in the 1930 encyclical letter of Pope

¹⁵ See GS, no. 48, in AAS, 58 (1966), 1067–1069, *FLANNERY1*, 950–952.

¹⁶ See PALMER, “Christian Marriage: Contract or Covenant?” 639; see also BUCK, “*Gaudium et spes* and Marriage,” 451.

¹⁷ *Codex iuris canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus*, Typis polyglottis Vaticanis, 1917, c. 1012, §2, English translation in E.N. PETERS (ed.), *The 1917 Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001. All references to the canons of 1917 Code will be styled “CIC/17, c.” for canon and “CIC/17, cc.” for canons, followed by the canon number(s).

¹⁸ See CIC/17, 1013, §1: “Matrimonii finis primarius est procreatio atque educatio proles; secundarius mutuum adiutorium et remedium concupiscentiae.”

Pius XI *Casti connubii*¹⁹ which highlighted the notion of covenant (*foedus*) and emphasized the importance of the goods of marriage: children (*proles*), fidelity (*fides*), and the sacrament (*sacramentum*).²⁰ GS appropriated those particular insights and presented marriage as a covenant patterned after the covenant between Christ and the Church.

The drafters of GS refused to use the term “contract”²¹ also because, in the modern understanding of this notion, the content of a contract can be decided freely by the parties involved. Marriage conceived as a purely contractual relationship would thus allow the spouses to choose to exclude unity and indissolubility. In contrast, the concept of marriage covenant in GS embraces the relationship between man and woman as persons sustained by their relationship to a personal God and bound to God’s design for marriage.

As the encyclical letter *Casti connubii* explained, “... [t]he sacred partnership of true marriage is constituted both by the will of God and the will of man.”²² Both man and woman bear the image of Christ and divine love is the measure of their reciprocal duties.²³ On its part, GS emphasises the development and self-fulfillment of the husband and wife through an irrevocable mutual self-giving, just as Christ gives himself to the Church. This free and mutual gift of themselves permeates their whole lives and is

¹⁹ PIUS XI, Encyclical Letter on Christian Marriage *Casti connubii*, 31 December 1930, in AAS, 22 (1930), 539–592, amended in AAS, 22 (1930), 604, English translation in C. CARLEN (ed.), *The Papal Encyclicals 1903–1939*, Wilmington, NC, McGrath Publishing Co., 1981, 391–414.

²⁰ See BUCK, “*Gaudium et spes* and Marriage,” 444–446.

²¹ The contractual dimension of marriage is still present but is now explained with new theological meaning as a covenant of irrevocable personal consent. See BUCK, “*Gaudium et spes* and Marriage,” 454–456.

²² *Casti connubii*, no. 9, in AAS, 22 (1930), 542–543, CARLEN (ed.), *The Papal Encyclicals 1903–1939*, 392.

²³ See *Casti connubii*, no. 29, in AAS, 22 (1930), 550, CARLEN (ed.), *The Papal Encyclicals 1903–1939*, 395; see also BUCK, “*Gaudium et spes* and Marriage,” 455.

reflected in the actions of the spouses in their marriage and family. There is a natural and divine unity between conjugal love and the procreation of children: conjugal love brings about the intimate communion of life and love open to forming a family community.²⁴ To sum up, *Gaudium et spes* affirms the equal personal dignity of husband and wife while going beyond what is contained in *Casti connubii*.²⁵

Gaudium et spes, no. 51 contains a blend of the two meanings of the conjugal act, harmonizing “a conjugal love with a respect for human life.”²⁶ The notion of marriage as a covenant entails biblical, psychological and pastoral concerns in relation to the spouses, as opposed to the contractual understanding which focuses on the ends of marriage. This development allowed the Church to acquire a deeper and richer understanding of marriage as the vocation of husband and wife: marriage understood as a covenant is more than a partnership or a contract; it is a Christian vocation (*vocatio Christiana*), a calling by God and therefore a blessing that is meant to lead to holiness and salvation.²⁷

The Conciliar Fathers refer to marriage as the intimate partnership of life and love (*intima communitas vitae et amoris coniugal*is), pointing to conjugal love as a specifying element.²⁸ The irrevocable personal consent of mutual self-giving in their covenant is the foundation for a communion of persons, where they grow in love for each other and are open to the acceptance and education of children as an expression of their love. The tradition of the *tria bona matrimonii*, namely, *bonum prolis* (the good of the offspring),

²⁴ See GS, no. 48–50, in AAS, 58 (1966), 1067–1072, *FLANNERY1*, 950–954.

²⁵ See BUCK, “*Gaudium et spes* and Marriage,” 455; see also GS, no. 49, in AAS, 58 (1966), 1069–1070, *FLANNERY1*, 952–953; cf. *Casti connubii*, no. 29, in AAS, 22 (1930), 550, CARLEN (ed.), *The Papal Encyclicals 1903–1939*, 395.

²⁶ BUCK, “*Gaudium et spes* and Marriage,” 456.

²⁷ See *ibid.*, 456–457.

²⁸ See GS, no. 48, in AAS, 58 (1966), 1067–1069, *FLANNERY1*, 950–952. See also MENDONÇA, “The Theological and Juridical Aspects of Marriage,” 277.

bonum fidei (the good of fidelity [unity]), and *bonum sacramenti* (the good of the sacrament [indissolubility]) inspired by the theology of St. Augustine²⁹ is invoked in GS, no. 48.³⁰ The *bonum sacramenti* (the good of the sacrament [indissolubility]) stresses the irrevocability of the covenant between spouses.³¹

The Conciliar Fathers also used other key terms in their description of marriage in GS: sacred bond (*vinculum sacrum*), a mutual giving of two persons (*mutua duarum personarum donatio*) – a value that is fully human, personal and total,³² and an unbreakable covenant (*foedus indissolubile*).³³ *Gaudium et spes* affirmed thus the indissolubility of the marriage covenant, describing it as the intimate union of the spouses and their lives, the mutual self-giving of the spouses for the benefit of the other and also for the good of their children. The marriage covenant retains its indissolubility even when a couple is unable to conceive.³⁴

In sum, the theologically inspired term “marriage covenant” allows for a deeper and richer way in which to understand marriage, giving a more meaningful and multi-dimensional impetus to a post-conciliar development of the theology of marriage and family.³⁵

²⁹ See P.G. WALSH (ed. and trans.), *Augustine: De bona coniugali, de sancta virginitate*, Oxford, Clarendon Press, 2001, no. 24, 57–59.

³⁰ See in AAS, 58 (1966), 1067–1069, *FLANNERY1*, 950–952.

³¹ See GS, no. 50, in AAS, 58 (1966), 1070–1072, *FLANNERY1*, 953–954.

³² See GS, no. 49, in AAS, 58 (1966), 1069–1070, *FLANNERY1*, 952–953. See also MENDONÇA, “The Theological and Juridical Aspects of Marriage,” 277.

³³ See GS, no. 50, in AAS, 58 (1966), 1070–1072, *FLANNERY1*, 953–954. See also T. MACKIN, “The Second Vatican Council and *Humanae vitae*,” in C.E. CURRAN and J.H. RUBIO (eds.), *Marriage*, Readings in Moral Theology, no. 15, New York, Paulist Press, 2009, 59.

³⁴ See cc. 1056–1057; see also K.R. HIMES and J.A. CORIDEN, “The Indissolubility of Marriage: Reasons to Reconsider,” in *Theological Studies*, 65 (2004), 459.

³⁵ See BUCK, “*Gaudium et spes* and Marriage,” 457; see also MENDONÇA, “The Theological and Juridical Aspects of Marriage,” 304.

Since the promulgation of *Gaudium et spes*, two events greatly influenced the current understanding of marriage in the Church; one is the reform of matrimonial canon law and the other is an extensive examination of the fruits of the Council in view of developing doctrine and jurisprudence. Consequently, the norms on marriage in the 1983 Code underwent a critical examination to determine whether they reflect an acceptable account of the change in theological models. In fact, the formulation of c. 1055 of the 1983 Code was strongly criticized because it retained the language of marital contract in 1055, §2, even though c. 1055, §1 defined marriage in terms of a marital covenant.³⁶

1.1.2 – Encyclical Letter on the Regulation of Birth *Humanae vitae*

Pope Paul VI wrote the encyclical letter *Humanae vitae*,³⁷ promulgated on 25 July 1968, to complete a task left unfinished by the Second Vatican Council. This encyclical letter was a re-examination of the Catholic Church's proscriptive moral judgment on artificial control of human fertility. Paul VI began by announcing, between the Council's second and third sessions, the expansion of the Commission for the Study of Problems of Population, Family and Birth that Pope John XXIII, had established. The Commission recommended the acceptance of the conclusion that artificial birth control is not intrinsically evil and, consequently, that Catholic couples might decide for themselves

³⁶ See K. LÜDICKE, "Matrimonial Consent in Light of a Personalist Concept of Marriage: On the Council's New Way of Thinking about Marriage," in *Studia canonica*, 33 (1999), 473–474.

³⁷ PAUL VI, Encyclical Letter on the Regulation of Birth *Humanae vitae*, 25 July 1968 (=HV), in AAS, 60 (1968), 481–503, English translation in A. FLANNERY, (gen. ed.), *Vatican Council II: More Post Conciliar Documents*, vol. 2, new rev. ed., Northport, NY, Costello Publishing Co., 1998 (=FLANNERY2), 397–416.

about the methods of birth control they use. Paul VI, however, rejected the recommendation and renewed the prohibition of artificial limitation of human fertility.³⁸

Although the encyclical has been heavily contested in some quarters of the Church, and still seems to be disregarded by many, nevertheless it deserves attention, notably for its modern and eloquent presentation of the notion of conjugal love. At the beginning of *HV* Pope Paul VI acknowledged the fact that men and women in the modern world perceive the importance of conjugal love:

It is also apparent that, with the new understanding of the dignity of woman, and her place in society, there has been an appreciation of the value of love in marriage and of the meaning of intimate married life in the light of that love.³⁹

Drawing directly from *GS*, Pope Paul VI set out his understanding of “the two great realities of married life”: the demands of marital love and of responsible parenthood.⁴⁰ He stated that for men and women the true source of their marital love is God’s love. However, he did not mean that God’s love is the primarily model for theirs; he meant something more practical: God himself instituted marriage in order to realize his design of love in human beings through conjugal love:⁴¹

Married love particularly reveals its true nature and nobility when we realize that it derives from God and finds its supreme origin in him who ‘is Love’ [...]. Marriage then is far from being the effect of chance or the result of the blind evolution of natural forces. It is in reality the wise and provident institution of God the Creator, whose purpose was to establish in man his loving design.⁴²

The nature of conjugal love is described in view of four principles. First of all, this love is fully human; it is simultaneously physical and spiritual. It is a movement of

³⁸ See MACKIN, “The Second Vatican Council and *Humanae vitae*,” 64; see also D.E. FELLHAUER, *The Consortium omnis vitae* as a Juridical Element of Marriage, JCD thesis (Ottawa, Faculty of Canon Law, Saint Paul University, 1979), in *Studia canonica*, 13 (1979), 114–115.

³⁹ See *HV*, no. 2, in AAS, 60 (1968), 481–482, *FLANNERY2*, 397.

⁴⁰ See *HV*, no. 7, in AAS, 60 (1968), 485, *FLANNERY2*, 400.

⁴¹ See MACKIN, “The Second Vatican Council and *Humanae vitae*,” 64; see also ID., “Conjugal Love and the Magisterium,” in *J*, 36 (1976), 291.

⁴² *HV*, no. 8, in AAS, 60 (1968), 485–486, *FLANNERY2*, 400.

instinct and sentiment as well as principally an act of the will. Secondly, conjugal love is total; it is a special form of personal friendship in which husband and wife share. Thirdly, it is faithful and exclusive until death. Finally, conjugal love is creative of life. It is not exhausted by the communion between husband and wife, but raises up new lives in which the couple accept their mission of responsible parenthood. Conjugal love has therefore two meanings: it is the unitive and the procreative. Their inseparable connection is willed by God; it is a connection that cannot be broken by human initiative.⁴³

Pope Paul VI states that a conjugal act which one imposes on the other partner in marriage without regard for his or her condition and lawful desires is not a true act of love, and it therefore denies an exigency of right moral order in the relationship. This means that when the spouses have sexual intercourse, each one must consider the condition of the other party and their lawful desire; only then their act can be called a true act of love. Therefore, from this understanding follows that if the sexual intercourse is not a true act of love it constitutes a violation of the moral order.⁴⁴

In the pastoral directives of Part Three of *HV*, Pope Paul VI acknowledges that married couples have the right to order the birth of children; however, it is for the married couple to gain mastery over themselves and their emotions rather than rely on artificial means to do so. The couple's self-discipline and mastery of themselves makes them a witness to the chastity of husband and wife, with regard to the practice of periodic continence.⁴⁵

⁴³ See *HV*, no. 8, in *AAS*, 60 (1968), 485–486, *FLANNERY2*, 400. See also MACKIN, “Conjugal Love and the Magisterium,” 291–292.

⁴⁴ See MACKIN, “Conjugal Love and the Magisterium,” 292.

⁴⁵ See *HV*, no. 21, in *AAS*, 60 (1968), 495–496, *FLANNERY2*, 408–409. See also MACKIN, “Conjugal Love and the Magisterium,” 293.

The theology of the sacrament of marriage in *HV* is expressed in indirect ways, similar to the theological explanations found in *GS*. This approach to describing and explaining theological principles develops and enriches the Church's theology of marriage. Through this explanation of the theological principle that God has designed spousal love according to the model of His own love, it is also understood that God works in and through human marital love.⁴⁶

There are four aspects of the description of God's love in *HV* that almost duplicate the thought of *GS*. The first description shares the latter's negative purpose, which is to deny the common belief in the Western world that the love relevant to marriage is romantic infatuation or an emotional involvement closely akin to it.⁴⁷

The second description rejects the ancient idea, Aristotle's among them, which asserts that a full and perfect friendship between man and woman is impossible. This idea was based on the reasoning that friendship calls for equality of the persons and women were not considered equal to men with regard to virtues. *HV* rejects this belief in saying that it is characteristic of marital love that husbands and wives share everything, giving themselves as persons to one another.⁴⁸

The third description of marital love is mentioned briefly in *HV*, no. 9: "[m]arried love is faithful and exclusive of all other, and this until death."⁴⁹ Later, a supporting paragraph refers to an evidence that could be gathered only inductively: "The example of

⁴⁶ See MACKIN, "The Second Vatican Council and *Humanae vitae*," 67.

⁴⁷ See *HV*, no. 9, in AAS, 60 (1968), 486–487, *FLANNERY2*, 401.

⁴⁸ See *ibid.* See also MACKIN, "The Second Vatican Council and *Humanae vitae*," 68.

⁴⁹ *HV*, no. 9, in AAS, 60 (1968), 486–487, *FLANNERY2*, 401.

so many married persons down through the centuries shows not only that fidelity is connatural to marriage but also is the source of profound and lasting happiness.”⁵⁰

In *HV* Pope Paul VI identified the final description of marital love as fruitful love. He adds thus another point that can be verified only by experience, namely that marital love cannot attain its full realization if confined exclusively within husband-wife relationship:⁵¹

And finally, this love is creative of life, for it is not exhausted by the loving interchange of husband and wife, but also contrives to go beyond this to bring new life into being.⁵²

In his final statements in *HV* Pope Paul VI pointed to the heart of his definition of marriage, and therein, to the heart of the sacrament’s matrix: “[...] the reciprocal and personal gift of self, proper and exclusive to them...” “Proper to” in the traditional vocabulary of this document can mean “intrinsic to,” “belonging to its essence,” “of its nature.” Its meaning here is fixed more accurately by the adjective “exclusive.” It indicates the kind of inclusiveness of self-giving that only a man and a woman can have.⁵³

Humanae vitae reaffirmed that marriage and conjugal love is creative of life and rejected artificial birth control and abortion. Conjugal love is a loving communion between husband and wife which extends to and benefits their children. Spouses are to be open to the procreation of children and once a child is conceived, they must preserve the child’s life and welfare through giving birth and nurturing the child by their loving care.⁵⁴

⁵⁰ Ibid.

⁵¹ See MACKIN, “The Second Vatican Council and *Humanae vitae*,” 67–68.

⁵² *HV*, no. 9, in AAS, 60 (1968), 486–487, *FLANNERY2*, 401.

⁵³ See MACKIN, “The Second Vatican Council and *Humanae vitae*,” 69.

⁵⁴ See c. 1055, §1; see also MENDONÇA, “The Theological and Juridical Aspects of Marriage,” 288–289; see also FELLHAUER, *The Consortium omnis vitae* as a Juridical Element of Marriage, 115–116.

1.1.3 – Apostolic Exhortation on the Role of the Christian Family in the Modern World *Familiaris consortio*

Since the Second Vatican Council, a number of official documents from Rome have dealt with the family. On 22 December 1981, Pope John Paul II issued his Apostolic Exhortation on the Role of the Christian Family in the Modern World *Familiaris consortio*.⁵⁵ The exhortation followed the 1980 Synod of Bishops, held in Rome from 26 September through 25 October 1980.

John Paul II began his exhortation by assuring married people that the Church is aware of the problems afflicting many couples who are struggling with understanding the fundamental value of family life. In this regard, the Church can offer an understanding of the truth concerning marriage and family and its deepest meaning. The Pope emphasized also that the teaching of the Second Vatican Council remains the fundamental event in the life of the contemporary Church. He traced the continuity of the conciliar vision of marriage and family in his apostolic exhortation.⁵⁶

Familiaris consortio is a comprehensive exposition of the Church's teaching on marriage and family life. There are four main parts of the exhortation. Part One of the text (nos. 4–10) offers a description of the existential context in which the family finds itself today. Among positive factors of the present cultural milieu, *FC* lists greater attention to the dignity of women, the quality of interpersonal relationship in marriage, responsible procreation and education of children, interfamily support, and the family responsibility to society and the Church. The negative aspects of the contemporary socio-

⁵⁵ JOHN PAUL II, Apostolic Exhortation on the Role of the Christian Family in the Modern World *Familiaris consortio*, 22 November 1981 (=FC), in AAS, 74 (1982), 81–191, English translation in FLANNERY2, 815–898.

⁵⁶ See P.M. CONNER, *Married in Friendship: Familiaris consortio – Digest and Commentary, Friendship – Key to Marital Spirituality*, London, Sheed and Ward Ltd, 1987, 2–3.

cultural situation include lack of spousal interdependence, problems between parents and children, growing rate of divorce, purely civil marriages, cohabitation without marriage, abortion, sterilization, contraceptive mentality, confusion about the meaning of human sexuality, and the exploitation of women.⁵⁷

Pope John Paul II went beyond a description of the particular situation to an analysis of the root of the sickness requiring remedy. He determined the fundamental cause of family breakdown as a corruption of the idea and the experience of freedom. Liberal societies interpret freedom as the right to do whatever one wants. John Paul II reiterates his conviction that the exercise of authentic freedom is always linked to the objective truth of creation and Redemption.

God created man in his own image, therefore the vocation to married life is to act as God acts. Spouses are to love as God loves and to give themselves to others as God does. Conjugal love and marriage are ordained to the procreation and education of children, in whom they find their crowning feature. When a couple give themselves to one another in marital relations, they also give a permanent sign of conjugal unity being father and mother to the children of their union. Each human as a person with a body, being an incarnate spirit, expresses and receives love through that body. A conjugal love, the basis of marriage and family, is willed by God and is to be lived according to His design established in the beginning.

Of special importance for the Thai context, is the third part of *FC*, nos. 17–64, in which Pope John Paul II examines the family as a community of love and life which arises from the spousal covenant of marriage. The essence and role of the family is the

⁵⁷ See L.S. CAHILL, “Commentary on *Familiaris consortio* (Apostolic Exhortation on the Family),” in K.R. HIMES et al. (eds.), *Modern Catholic Social Teaching: Commentaries and Interpretations*, Washington, DC, Georgetown University Press, 2005, 363–364.

mission to guard, reveal and communicate love, and be a living reflection of and a real sharing in God's love for humanity

The first task of the family is to live faithfully and foster the growth of its inner life as a true community of persons. Love must be the family's source of its life-giving witness and it is this love between spouses and among family members which establishes and sustains the family institution as a community of persons. *FC* no. 19 describes two characteristics of the communion between husband and wife. First, this communion is marked by a continual growth in the spouses' mutual self-giving, a sharing of their entire life-project together. The unity and exclusivity of conjugal communion is radically contradicted by polygamy, which is opposed to God's original revealed plan for man and woman. Second, authentic spousal communion must be indissoluble. Divorce and a subsequent marital union deny the truth of the indissolubility of marriage.

Pope John Paul II mentions several serious obstacles that prevent the family from becoming a community of persons. He also points to the equal dignity of men and women. Women should be respected as wives and mothers in the family. Husbands and fathers are to foster family unity in a suitable way by respecting the equal dignity of their wives. One of the father's chief tasks is the education of their children. *FC*, no. 26 calls on parents to show profound respect for their children's personal dignity and their rights. This calls for the parents to act with a tender love of offspring, especially when their children are sick, suffering, or handicapped, and also to assume the responsibility for their material, emotional, educational, and spiritual welfare.⁵⁸

⁵⁸ See "Family as a Community of Persons," in *The Post-Synodal*, 125–126; see also CONNER, *Married in Friendship*, 27–37.

The second task of the family, as described in Part Two (nos. 28–41) is to serve life. From the beginning, both husband and wife are to share God’s love and power through their free and responsible cooperation in transmitting the gift of human life. Spousal fruitfulness is a unique participation in God’s creative love; therefore, children are the fruit and the sign of conjugal love. Pope John Paul II reaffirms the Church’s teaching on conjugal sexuality by explaining that the procreative and unitive meaning of sex cannot be deliberately separated without distorting the true significance of conjugal relations. He also clarifies the difference between contraception and natural methods of regulating fertility, and explains the pastoral ramifications of the Church’s teaching on responsible parenthood.

The Church’s pastoral approach to contraception is rooted in her conviction that the divine law on transmitting life fosters the true good of married love and family communion. When a couple faces a lack of understanding and fails in practice in this area of married life, the Church community – bishops, parish priests, members of institutes of consecrated life, parents, and families – ought to assume responsibility for instilling conviction about the truth of human sexuality and offer the practical necessary help which would enable the spouses to live their conjugal life in light of Christ’s teaching. Parents also have the task of educating their offspring and providing an integral education as a spiritual prolongation of procreation.⁵⁹

Pope John Paul II emphasizes the parents’ right and duty to educate their children (nos. 36–41). Therefore, he encourages parents to train their children to know the

⁵⁹ See “Serving Life: Procreation and Education,” in *The Post-Synodal*, 127–128; see also CONNER, *Married in Friendship*, 37–49.

essential values of human life and provide a clear and appropriate sex education and formation in chastity for their children.⁶⁰

The third task of family life is the family's mission to society (nos. 42–48). The pope describes the educative role of the family by pointing out the contribution that family should make to society, and the contribution that society should make to the family. The family promotes true communion among its members; therefore, it can serve as the first and irreplaceable school of social life, an example of the community relationships marked by respect, justice, dialogue and love. John Paul II urges the family to take an active part in politics; this task will give them a familiarity with the laws and institutions of the state and the state's role in supporting and positively defending the rights and duties of the family. Political authority must respect the family's rightful autonomy and refrain from regulating its internal life. Public authorities should strive to ensure that families have the economic, social, educational, and cultural help needed for their own development.⁶¹

The final task is the family's mission in and for the Church. *FC*, nos. 49–64, describes the family's threefold mission as prophetic, priestly, and kingly following the traditional depiction of Christ as prophet, priest, and king. The family fulfills the prophetic mission by being a believing and an evangelizing community. This mission acquires a special importance in a disparity of worship marriages – the Catholic spouse evangelizing the non-baptized party and transmitting the faith to their children.⁶²

⁶⁰ See “Serving Life: Procreation and Education,” in *The Post-Synodal*, 128–129; see also CONNER, *Married in Friendship*, 49–58.

⁶¹ See “Family Mission to Society,” in *The Post-Synodal*, 129–130; see CONNER, *Married in Friendship*, 59–63.

⁶² See *FC*, no. 17–64, in *AAS*, 74 (1982), 99–158, *FLANNERY2*, 827–868. See also “Family's Mission in and for the Church,” in *The Post-Synodal*, 130–131; CONNER, *Married in Friendship*, 63–79.

In the fourth part of the exhortation, Pastoral Care of the Family (nos. 65–85), Pope John Paul II urges the whole Church to accept the challenge of strengthening the pastoral care of the family, an activity which he considered a real matter of priority. He systematically describes the stages, structures, agents, and difficult situations of this pastoral intervention. The pastoral care of the family begins with the promotion of marriage preparation in three principal stages: remote, proximate, and immediate steps. The purpose is to lead the couple to a deeper knowledge of the mystery of Christ and the Church, the meaning of grace, and the responsibility of Christian marriage and then adapt their lives in accord with these values.

The wedding ceremony itself deserves pastoral attention. Those who assist in preparing the couple should ensure that the proposed marriage is fulfilled regarding free consent, absence of impediments, the observance of canonical form, and the liturgical rite of the marriage itself. After their wedding, all members of the local community are invited to help the newly married to live their new vocation.⁶³

Familiaris consortio describes six different agents that should minister to the family. The local bishop is the one principally responsible for this ministry in the diocese and for the pastoral care of the family. Parish priests, and also deacons, should prepare families for celebrating the sacraments and preach the truth as expressed in the authentic Magisterium of the Church. The Pope exhorts theologians to explain clearly and thoroughly the Church's teaching on the family. Religious men and women need to develop their apostolate on behalf of the family. Lay specialists: individual or in associations, can support the family by their professional services and advice.

⁶³ See FC, no. 65–72, in AAS, 74 (1982), 158–170, FLANNERY2, 868–877. See also “Stages in the Pastoral Care of the Family,” in *The Post-Synodal*, 132–133; CONNER, *Married in Friendship*, 81–87.

Pastoral care is to focus especially on families in difficult situations: mixed marriages, common law marriages, civil marriages, and divorced Catholics. In the case of mixed marriages (no. 78), the emphasis is on strengthening the faith of the Catholic party who should enjoy the free exercise of their faith and accept the obligation of baptizing and raising their children in the Catholic faith. The parish priests should help the couples in mixed marriages to respect each other's right to religious freedom. There is also a need for a more special pastoral assistance given to a Catholic party who enters into a disparity of cult marriage, which means the other party is non-baptized.⁶⁴

John Paul II urges pastors to promote a campaign of promotion of Christian marriage and family life by fostering the sense of fidelity to the Christian understanding of marriage and family by a holistic, moral and religious training of young people. *FC* reaffirms the Church's teaching on divorce (no. 84), explains why conjugal love requires the permanent covenant of marriage, and encourages the whole Church to develop a pastoral response to those who divorced and remarried. In many cultures which reject the indissolubility of marriage, there is an urgent need to proclaim the good news of the definitive nature of the conjugal love that has its foundation and strength in Christ.⁶⁵

Since the publication of *FC* to the promulgation of the 1983 Code, the teaching on Christian marriage had continued to develop. For instance, marriage preparation is described as a gradual and continuous process including remote, proximate, and

⁶⁴ See "Pastoral Care in Difficult Cases," in *The Post-Synodal*, 133–136; see also CONNER, *Married in Friendship*, 90–91.

⁶⁵ See *FC*, no. 73–85, in AAS, 74 (1982), 170–191, *FLANNERY2*, 868–877. See "Indissolubility and Divorce," in *The Post-Synodal*, 141–142; see also CAHILL, "Commentary on *Familiaris consortio* (Apostolic Exhortation on the Family)," 363–364.

immediate preparation, and, finally, post-marriage assistance,⁶⁶ which one can find codified in c. 1063.⁶⁷

Familiaris consortio proclaims that the history of humanity and of salvation passes by way of the family. The Church's teaching on marriage continues because the Church received it from Christ himself and throughout its history has interpreted it with the help of and in the light of the Spirit.⁶⁸

1.1.4 – Post-Synodal Apostolic Exhortation on Love in Family *Amoris laetitia*

Pope Francis published the Apostolic Exhortation on Love in Family *Amoris laetitia*⁶⁹ on 8 April 2016. The synodal process that led to this document took several years to complete. It began when Pope Francis called for two synods: one in 2014 and the other in 2015.

The first synod, October 5–19, 2014, was held under the theme “The Pastoral Challenges of the Family in the Context of Evangelization.” This was an extraordinary synod in which the presidents of all the conferences of bishops in the world, representatives of the Roman Curia and other designated persons participated. The second synod, held October 4–25, 2015, with the theme “The Vocation and Mission of the Family in Church and the Contemporary World,” included delegates from the conferences of bishops (a number of whom were at the first Synod) and had far more

⁶⁶ See FC, no. 69, in AAS, 74 (1982), 165–166, *FLANNERY2*, 874.

⁶⁷ See c. 1063. See also F. GAVIN, “Canon 1063: Marriage Preparation as a Lifetime Journey,” in *Studia canonica*, 39 (2005), 181–201.

⁶⁸ See FC, no. 86, in AAS, 74 (1982), 191–192, *FLANNERY2*, 890–893. See also “Indissolubility and Divorce,” in *The Post-Synodal*, 144; CONNER, *Married in Friendship*, 97–98.

⁶⁹ FRANCIS, Post-Synodal Apostolic Exhortation on Love in Family *Amoris laetitia*, 19 March 2016 (=AL), in AAS, 108 (2016), 311–446, English translation *Amoris laetitia: Post-synodal Apostolic Exhortation on Love in the Family*, Libreria editrice Vaticana, 2016.

participants. Each Synod assembly issued a paper summarizing its results – known as a *Relatio finalis* (final document). In preparing *AL*, Pope Francis made plentiful use of both final documents in presenting the material beginning with the bishops’ pastoral experience rather than with what he thought personally.⁷⁰

Our study will focus on Chapter Three of *AL* which summarizes essential aspects of the Church’s teaching on marriage and the family, and Chapter Four which explains essential characteristics of authentic love of married couples and within the family.⁷¹

In Chapter Three of *AL*,⁷² “The Vocation of the Family,” Pope Francis mentions five elements of a family vocation. The first element refers to Jesus who restores and fulfils God’s plan. The Pope explains that because marriage is a gift from God, we need to protect it. He reaffirms that the indissolubility of marriage is God’s original plan for man and woman. Divorce comes from the hardness of heart; however, God’s indulgent love will always accompany, heal and transform hardened hearts on their journey back to the way of the cross.⁷³ Christ who reconciled and redeemed marriage and family, conforming them to their original plan in the image of the Holy Trinity, bestows on marriage and the family the grace to bear witness to God’s love and to live in

⁷⁰ See F.G. MORRISEY, “Some Pastoral Implications Arising from Chapter VIII of the Apostolic Exhortation *Amoris laetitia*,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 186 (2016), 55–56; see also L. MAGESA, “The Conscience of the African Church in the Synod on the Family and *Amoris Laetitia*,” in *INTAMS*, 22 (2016), 154–168.

⁷¹ The exhortation is divided into nine chapters: 1. In the Light of the World; 2. The Experiences and Challenges of Families; 3. Looking to Jesus: The Vocation of the Family; 4. Love in Marriage; 5. Love Made Fruitful; 6. Some Pastoral Perspectives; 7. Toward a Better Education of Children; 8. Accompanying, Discerning and Integrating Weakness; 9. The Spirituality of Marriage and the Family.

⁷² See *AL*, nos. 58–88, in AAS, 108 (2016), 335–346, in *Amoris laetitia*, 55–80.

⁷³ See *AL*, nos. 61–62, in AAS, 108 (2016), 336, in *Amoris laetitia*, 57–58. See also MORRISEY, “Outline for a Spirituality of the Family,” 32; cf. Mt 19:3.

communion. The Holy Family of Nazareth, Jesus, Mary and Joseph, gives the example to every family by loving and supporting each other through hard times.⁷⁴

The second element focuses on the Church's documents that deal with marriage and the family. The Pope highlights the teachings of Vatican II and recent popes, mentioning specific points that can eventually be integrated into a family spirituality. For instance, *AL* reminds of Vatican II's definition of marriage as a community of life and love, placing love at the center. *GS* emphasizes the grounding of the spouses in Christ, who makes himself present to the Christian spouses in the sacrament of marriage. Pope Paul VI spoke of responsible parenthood as an expression of true conjugal life in *HV*.⁷⁵ Pope John Paul II explained a vision of the vocation of men and women to holiness and love, and proposed basic guidelines for the pastoral care of the family in *FC*.⁷⁶ Finally, Pope Francis notes that Pope Benedict XVI, in the encyclical *Caritas in veritate*⁷⁷ highlighted the importance of love as a principle of life in society.⁷⁸

Chapter Three focuses on the sacrament of matrimony. Through the Church, marriage and family receive the grace of the Holy Spirit from Christ in order to bear witness to the Gospel of God's love. The married couple is reminded by the Church that through their commitment and mutual self-giving to one another, and for the good of their children, they are witnesses of salvation in which they share through the sacrament.

⁷⁴ See *AL*, no. 66, in AAS, 108 (2016), 337–338, in *Amoris laetitia*, 60–61. See also MORRISEY, “Outline for a Spirituality of the Family,” 32.

⁷⁵ See *AL*, no. 68, in AAS, 108 (2016), 338, in *Amoris laetitia*, 62.

⁷⁶ See *AL*, no. 69, in AAS, 108 (2016), 338–339, in *Amoris laetitia*, 63.

⁷⁷ BENEDICT XVI, Encyclical Letter on Integral Human Development in Charity and Truth *Caritas in veritate*, 29 June 2009, in AAS, 101 (2009), 641–709, Vatican English version *Charity in truth*, San Francisco, CA, Ignatius Press, 2009.

⁷⁸ See *AL*, nos. 67–70, in AAS, 108 (2016), 338–339, in *Amoris laetitia*, 61–64. See also MORRISEY, “Outline for a Spirituality of the Family,” 32–33.

The sacrament of marriage is a sign of Christ's love for his Church. In the marriage covenant that love exists and the communion of the spouses is rooted. The common relationship of husband and wife, with their children and also with all people around them, is imbued with and strengthened by the grace of the sacrament.⁷⁹

The fourth element, indicated in Chapter Three, is the transmission of life and the rearing of children, focusing on human life from conception to natural death. The Church's teaching, from the Second Vatican Council, through the 1983 Code and Catechism of the Catholic Church, is placed in the context of respect for life at the beginning of married life. The conjugal love between the spouses, by nature itself, is ordered to procreation. The child, who is born of that union, comes from the very heart of that mutual giving and is the actual fruit and fulfillment of conjugal love. The Church's teaching is meant to help couples to experience in a complete, harmonious, and conscious way their communion as husband and wife, together with their responsibility for procreating. In this perspective, the education of children is also a dimension of the transmission of life.⁸⁰

The final element of a family vocation, pointed to in Chapter Three, is the vocation of the family seen within the life of the entire ecclesial community. The Pope points out that the couple bears witness in a credible way to the beauty of marriage as indissoluble and perpetually faithful. He continues to explain that in the family, one learns endurance and the joy of work, fraternal love, generous, and frequently repeated forgiveness, and above all, divine worship in prayer and the offering of one's life. The

⁷⁹ See *AL*, nos. 73–74, in *AAS*, 108 (2016), 337–338, in *Amoris laetitia*, 65–68. See also MORRISEY, “Outline for a Spirituality of the Family,” 33.

⁸⁰ See *AL*, nos. 80–84, in *AAS*, 108 (2016), 343–346, in *Amoris laetitia*, 73–77. See also MORRISEY, “Outline for a Spirituality of the Family,” 34–35.

Church is “a family of families,” therefore in virtue of the sacrament of matrimony, every family becomes a great value for the Church. The safeguarding of the Lord’s gift in the sacrament of matrimony is thus a concern not only of individual families but of the entire Christian community.⁸¹

Pope Francis dedicates Chapter Four of *AL*⁸² entitled “Love in Marriage” to discuss the nature of love. The chapter opens with a meditative passage from Saint Paul’s First Letter to the Corinthians⁸³ and offers seven essential characteristics of authentic love.⁸⁴

First, love can open the person’s eyes and help to see the worth of human beings. In other words, the “eyes of love” allow seeing the truth and recognizing the real value of those one loves. Husband and wife must look after and care about each other. Children also need to be noticed by their parents. If family members stop looking after each other, it can create a hurtful and problematic situation in the family.⁸⁵

Second, authentic love exists only when it comes from freedom and also respects that freedom. Pope Francis quotes from the *Summa theologiae* of Saint Thomas Aquinas who teaches that love depends on its being freely expressed.⁸⁶ Francis refers to a welcoming attitude towards children which are considered as a gift from God; they should be loved by their parents even before their actual birth. The value of the one who

⁸¹ See *AL*, nos. 86–87, in *AAS*, 108 (2016), 346, in *Amoris laetitia*, 78–79. See also MORRISEY, “Outline for a Spirituality of the Family,” 35.

⁸² See *AL*, nos. 89–164, in *AAS*, 108 (2016), 347–376, in *Amoris laetitia*, 81–140.

⁸³ 1 Cor 13:4–7.

⁸⁴ See G. O’COLLINS, “The Joy of Love (*Amoris laetitia*): The Papal Exhortation in Its Context,” in *Theological Studies*, 77 (2016), 915.

⁸⁵ See *AL*, no. 128, in *AAS*, 108 (2016), 361, in *Amoris laetitia*, 110.

⁸⁶ See *AL*, no. 127, in *AAS*, 108 (2016), 361, in *Amoris laetitia*, 109–110.

is loved unconditionally and upon whom love is bestowed freely, that is to say, gratuitously, is thereby acknowledged.⁸⁷

Third, Pope Francis insists that love always gives life and the mutual love results in the new life of children being born. That love between the parents is in constant need of growth:

“[...] marital love is not defended primarily by presenting indissolubility as a duty [...], but by helping it to grow ever stronger [...]. A love that fails to grow is a risk. Growth can occur only if we respond to God’s grace through constant acts of love [...].”⁸⁸

The Latin phrase *ubi amor, ibi vita et acutus*, which means “where there is love, there is life and growth” expresses well this concept.⁸⁹

Fourth, love prompts lovers into revealing their true selves. The Gospel of John reveals this dimension of love. The loving friendship of Jesus leads him to disclose to his disciples his life’s greatest treasure, the eternal relationship with his Father.⁹⁰ Pope Francis describes how married couples are challenged by their love which calls them to reveal their true self and come to know who the other person really is. Self-disclosure belongs to the challenge of true love.⁹¹

Fifth, the exhortation is using the concept of St. Thomas Aquinas, “affective union”, to highlight the union that is involved in conjugal love. The union between husband and wife, which is effective by the grace of the sacrament of marriage, combines the warmth of friendship and erotic passion, and endures long after emotions and passion diminish.⁹² The Pope points to the family as an image of the Blessed Trinity: three divine

⁸⁷ See *AL*, no. 166, in *AAS*, 108 (2016), 376–377, in *Amoris laetitia*, 141–142.

⁸⁸ See *AL*, no. 134, in *AAS*, 108 (2016), 364, in *Amoris laetitia*, 115.

⁸⁹ See O’COLLINS, “The Joy of Love (*Amoris laetitia*),” 915.

⁹⁰ See Jn 15:15.

⁹¹ See *AL*, no. 210, in *AAS*, 108 (2016), 395, in *Amoris laetitia*, 181.

⁹² See *AL*, no. 120, in *AAS*, 108 (2016), 358, in *Amoris laetitia* 103–104.

Persons united in a communion through which they give themselves to each other in love. They live with each other and for each other, but never at any cost to each other. The Trinity offers a divine image of the union of love in which married couples and family are called to be lovingly united in an image of the Trinity of Persons that God is.⁹³

Sixth, love involves a truly lifelong sharing; it means that the target of love is proving itself that it will be forever. Pope Francis remarks that lovers do not see their relationship as merely temporary, but expect that their loving union will pass the test of time. The couple acknowledge that conjugal love is a long-term pledge and a life-time commitment.⁹⁴

Finally, the seventh essential characteristic of love is joy. Pope Francis is calling his exhortation *Amoris laetitia*, i.e. the joy of love. He uses the word “joy” to point out something that needs to be active in a loving Christian marriage and family. Joy appears frequently throughout the exhortation, for instance “when loving persons can do good for others and make them happy, they themselves live happily,” or “rejoice in the well-being of others.”⁹⁵

The Pope explains that in marriage the joy of love needs to be developed; that is why he dedicates many passages to describing the importance of increasing the joy in the life of the married couple and their family. He appeals to the experience of joy: “Since we were made for love, we know that there is no greater joy than that of sharing good

⁹³ See *AL*, no. 71, in *AAS*, 108 (2016), 339, in *Amoris laetitia*, 64.

⁹⁴ See *AL*, no. 123, in *AAS*, 108 (2016), 359, in *Amoris laetitia*, 105–106. See also O’COLLINS, “The Joy of Love (*Amoris laetitia*),” 916.

⁹⁵ See *AL*, no. 109–110, in *AAS*, 108 (2016), 354, in *Amoris laetitia*, 95–96.

things,” and recalls the generous chef in the movie *Babette’s Feast*: it is “a joy and a great consolation to bring delight to others, to see them enjoying themselves.”⁹⁶

Pope Francis insists that the Church must continue to propose the “full ideal of marriage” and clearly express the Church’s objective teaching on married love. To those who press for a more careful pastoral care which leaves no room for confusion,⁹⁷ he responds that if the Church would put too many conditions on God’s mercy, it would mean having no mercy of real significance, no concrete mercy. That would result in proclaiming the mercy of God not as revealed in the Gospel.⁹⁸ Therefore, the exhortation celebrates the grandeur of married love which can be experienced as a sharing in advance of the full life of the resurrection of Jesus Christ.⁹⁹

To sum up, conciliar and post-conciliar documents of the Church seek to channel the Second Vatican Council’s desire for renewal into concrete actions and practical dispositions. The teaching and developing of Church’s understanding of the sacrament of marriage and married love is evident in the 1983 Code of Canon Law. Pope John Paul II, in promulgating the 1983 Code, described it as “the last [Second Vatican] Council’s document.”¹⁰⁰ The 1983 Code seeks therefore to give juridic expression and precision to the teaching, especially the ecclesiological one, of the Council.

⁹⁶ See *AL*, nos. 126–130, in *AAS*, 108 (2016), 360–362, in *Amoris laetitia*, 108–111.

⁹⁷ See *AL*, nos. 307–308, in *AAS*, 108 (2016), 437–438, in *Amoris laetitia*, 271–273.

⁹⁸ See *AL*, no. 311, in *AAS*, 108 (2016), 439–440, in *Amoris laetitia*, 275–276.

⁹⁹ See *AL*, no. 317, in *AAS*, 108 (2016), 442, in *Amoris laetitia*, 282.

¹⁰⁰ JOHN PAUL II, allocution to the Roman Rota, 26 January 1984, no. 2, in *AAS*, 76 (1984), 644, English translation in W.H. WOESTMAN (ed.), *Papal Allocutions to the Roman Rota 1939–2011*, Ottawa, Faculty of Canon Law, Saint Paul University, 2011, 181.

1.2 – Marriage according to the Code of Canon Law (cc. 1055–1062)

There are 111 canons directly devoted to marriage in the 1983 Code (cc. 1055–1165) which is more than for any other single subject. This extensive concern for marriage reflects the importance of this sacrament in the life of the Church. The formulation of the canonical dimensions of marriage is the result of centuries of study and experience. However, the canonical is only one dimension of this complex human, social and ecclesial reality.¹⁰¹

Canons 1055–1062 of 1983 Code, on the nature of marriage, constitute the basis for the other canonical norms on marriage and are probably those which touch both priests and laity most frequently, whether it is in view of preparation for marriage, in living out the matrimonial commitment or, regrettably, in considering failures in marriage.

These foundational canons on marriage reflect the developments in understanding the mystery of marriage, although with some caution and hesitation. After all, it is always easier to conceive new ideas than to construe new corresponding structures. Because of its broad cultural, doctrinal, pastoral and juridical weight, the universal legislation on marriage was the object of thorough revision.¹⁰²

1.2.1 – The Constitutive Elements of Marriage (c. 1055)

While the *CIC/17* focused narrowly on the contractual aspect of marriage and defined the object of the contract as the mutual giving and accepting of rights and duties

¹⁰¹ See T.P. DOYLE, “Marriage (cc. 1055–1165),” in J. CORIDEN, T. GREEN, and D. HEINTSCHEL (eds.), *The Code of Canon: A Text and Commentary*, New York/Mahwah, NJ, Paulist Press, 1985 (=CLSA Comm1), 737.

¹⁰² See L. ÖRSY, “Marriage in the New Code of Canon Law,” in *Theology Digest*, 31 (1984), 205–206.

concerning the potentially generative act,¹⁰³ the 1983 Code presents a much broader theological concept of covenant, albeit without excluding the contractual aspect of marriage itself.¹⁰⁴

The present Code begins with a description of marriage, unlike *CIC/17* which offered no definition. The first canon of the section on marriage in 1983 Code thus reads:

Canon 1055, §1. The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the baptized.¹⁰⁵

Canon 1055 went through numerous revisions before the final wording was established. The first paragraph which sets forth the fundamental, natural law principles of marriage, is grounded in *GS*, nos. 47–52,¹⁰⁶ with clear emphasis *GS*, no. 48,¹⁰⁷ is essentially a theological statement expressed in juridic language.¹⁰⁸ Canon 1055, §1 describes marriage only incidentally, but properly, while attempting to determine the object of the conjugal covenant, which constitutes between a man and a woman a partnership for the whole of their lives. This paragraph has at the same time both the object of a conjugal covenant and the definition of marriage itself.¹⁰⁹

¹⁰³ *CIC/17*, c. 1012, §1: “Christ the Lord raised the marriage contract itself to the dignity of a sacrament among the baptized” (*Christus Dominus ad sacramenti dignitatem evexit ipsum contractum matrimoniale inter baptizatos*); *CIC/17*, c. 1013, §1: “The primary end of marriage is the procreation and education of children; the secondary [end] is mutual support and a remedy for concupiscence” (*Matrimonii finis primarius est procreatio atque educatio prolis; secundarius mutuum adiutorium et remedium concupiscentiae*).

¹⁰⁴ See ÖRSY, *Marriage in Canon Law*, 46.

¹⁰⁵ Canon 1055, §1: “*Matrimoniale foedus, quo vir et mulier inter se totius vitae consortium constituunt, indole sua naturali ad bonum coniugum atque ad prolis generationem et educationem ordinatum, a Christo Domino ad sacramenti dignitatem inter baptizatos evectum est.*”

¹⁰⁶ See *GS*, nos. 47–52, in *AAS*, 58 (1966), 1067–1074, *FLANNERY1*, 949–957.

¹⁰⁷ See *GS*, no. 48, in *AAS*, 58 (1966), 1067–1069, *FLANNERY1*, 950–952.

¹⁰⁸ See J.P. BEAL, “Marriage (cc. 1055–1062),” in *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000 (=CLSA *Comm2*), 1240; cf. *CIC/17*, cc. 1012§1 & 1031§1; see also MORRISEY, “The Canons on Marriage,” 3.

¹⁰⁹ See MENDONÇA, “The Theological and Juridical Aspects of Marriage,” 269.

Accordingly, at the outset, c. 1055 describes marriage as a covenant rather than a contract. The term “contract,” used in *CIC/17* and related literature of that period, describes the nature of marital consent. Covenant is the translation of Latin word *foedus*. In Roman law, the term *foedus* was used for denoting agreements which transcended the ordinary categories of contract. Consequently, Vatican Council II conceives of marriage as a covenant, which serves to broaden and enrich the concept of Christian marriage. Therefore, this new relationship between contract and covenant is best understood if the move from contract to covenant is considered as a move to a higher viewpoint: covenant is a more accurate theological description of marriage consent. When Christians marry, there is a covenant between God and the couple in the same way as there was a covenant between Yahweh and his people, and between Christ and his Church.¹¹⁰

Secondly, this emphasis on the personal is also reflected when the canon speaks of the mutual consent of the parties as setting up a partnership or *consortium* of the whole of their life, the purpose of which is the well-being of the spouses and the procreation and upbringing of children. This phrase has its origins in Roman law and has a long tradition of canonical usage. It implies not merely a physical sexual union, but a total union on all levels between equal partners.¹¹¹

Thirdly, the canon speaks of the nature of the institution: it explains that marriage by its nature is ordered towards the good of the spouses and the procreation and education of offspring, which means that marriage has certain ends that are embedded in the nature of the institution itself (*finis operis*) and are independent of the will or

¹¹⁰ See ÖRSY, *Marriage in Canon Law*, 50; see also DOYLE, “Marriage (cc. 1055–1165),” 740.

¹¹¹ See D. KELLY, “Marriage (cc. 1055–1062),” in G. SHEEHY et al. (eds.), *The Canon Law – Letter & Spirit: A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995 (=CLSGBI Comm), 572.

intentions of the spouses (*finis operantis*). The 1983 Code has expanded the object of consent, and it clearly regards certain elements as essential, which formerly might have been seen as pertaining to perfection rather than the essence. The previous law distinguished between the primary end of marriage, procreation and education of children, and secondary end of marriage, mutual help and allaying of concupiscence, whereas the present law, following Vatican II, makes no such hierarchy or distinction.¹¹²

The last part of the first paragraph of c. 1055 affirms the traditional Catholic belief that marriage is, truly and properly, one of the seven sacraments of the evangelical law instituted by Christ the Lord.¹¹³ When marriage takes place between two baptized persons, the marriage covenant, the partnership of the whole life brought about by the spouses' consent acquires the dignity of the sacrament.¹¹⁴

The second paragraph of c. 1055 sets forth a fundamental theological truth about the marriage between the baptized:

Canon 1055, §2. For this reason, a valid matrimonial contract cannot exist between the baptized without it being by that fact a sacrament.¹¹⁵

Canon 1055, §2 repeats the wording of *CIC/17*, c. 1012, §2. It affirms that a valid marriage between two baptized persons is always sacramental and in the marriages of the baptized, the marital contract and the marital sacrament are joined that the one cannot

¹¹² See *ibid.*; see also BEAL, "Marriage (cc. 1055–1062)," 1243.

¹¹³ The Council of Trent taught on the sacrament of marriage: sessio XXIV, *canones de sacramento matrimonii*, no. 1: "If anyone says that marriage is not in a true and strict sense one of the seven sacraments of the gospel dispensation, instituted by Christ, but a human invention in the Church, and that it does not confer grace: let him/her be anathema" (*Si quis dixerit, matrimonium non esse vere et proprie unum ex septem legis evangelicae, a Christo Domino institutum, sed ab hominibus in Ecclesia inventum, neque gratiam conferre: a. s.*"), in J. ALBERIGO et al. [eds.], *Conciliorum œcumenicorum decreta*, [city], Herder, 1962, 730–731, English translation in N.P. TANNER, *Decrees of the Ecumenical Councils*, Washington, DC, Georgetown University Press, 1990, 754.

¹¹⁴ See BEAL, "Marriage (cc. 1055–1062)," 1246.

¹¹⁵ Canon 1055, §2: "Quare inter baptizatos nequit matrimonialis contractus validus consistere, quin sit eo ipso sacramentum."

exist without the other.¹¹⁶ The conclusion that a valid marital contract cannot exist between the baptized without being a sacrament refers not to the inseparability of those elements, but rather to the identity between the conjugal agreement and the sacramental reality so that there cannot be for the two baptized persons a merely natural marriage.¹¹⁷

However, if a baptized person legitimately marries an unbaptized person, with a necessary dispensation from the impediment of disparity of cult,¹¹⁸ that person enters into a valid though not sacramental marriage. This marriage would become sacramental if the unbaptized party were later to receive baptism.¹¹⁹

1.2.2 – The Properties of Marriage (c. 1056)

Canon 1056, which repeats *CIC/17*, c. 1013, §2 with only a minor change in the order of the words,¹²⁰ presents the essential properties of marriage as unity and indissolubility.

Canon 1056. The essential properties of marriage are unity and indissolubility, which in Christian marriage obtain a special firmness by reason of the sacrament.¹²¹

The essential properties of marriage, unity and indissolubility must be understood in the context of marriage defined as the intimate community of the whole of life. They

¹¹⁶ For a history of the development of this conclusion, see BEAL, “Marriage (cc. 1055–1062),” 1247.

¹¹⁷ See J.I. BAÑARES, “Marriage (cc.1055),” in Á. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montreal, Wilson & Lafleur Ltée, 2004 (=Exegetical Comm), 1052.

¹¹⁸ See c. 1086.

¹¹⁹ See KELLY, “Marriage (cc. 1055–1062),” 574. Reference to baptism means a valid baptism administered by the pouring, sprinkling, or immersion in water, accompanied by the Trinitarian formula. See DOYLE, “Marriage (cc. 1055–1165),” 741.

¹²⁰ *CIC/17*, c. 1013, §2: “Essentiales matrimonii proprietates sunt unitas ac indissolubilitas, quae in matrimonio christiano peculiarem obtinent firmitatem ratione sacramenti.” In the 1983 Code, the words, “ratione sacramenti” comes before “peculiarem obtinent firmitatem.”

¹²¹ Canon 1056: “Essentiales matrimonii proprietates sunt unitas et indissolubilitas, quae in matrimonio christiano ratione sacramenti peculiarem obtinent firmitatem.”

are not goals external to marriage but are part of the essence of the marriage itself. Unity and indissolubility are considered by the Church to be the properties of marriage by virtue of the natural law. Therefore, unity and indissolubility are properties of all marriages and not just of a Christian marriage; however, the marriage of baptized persons obtain a special firmness by reason of the sacrament.¹²²

Unity means that marriage is an exclusive relationship between one man and one woman. In marriage, a man and a woman mutually give and accept each other. It means one partner and no more, either simultaneously or successively; hence polygamy where one man has several wives, polyandry where one woman has several husbands, group marriages where several men marry several women, remarriage after divorce while the first party is still alive, are all excluded. However, this does not exclude successive marriages if the former bond has been dissolved by death or other legitimate means.¹²³

Polygamy and polyandry were and still are practiced in various societies at the present. Indeed, in certain primitive societies, marriage as a partnership does not hold an innate value comparable to that attributed to the tribe or clan. Total self-giving, which is essential to marriage, is impossible with a plurality of husbands and wives. The community of life is based on and needs total human fidelity for its existence and growth. The total gift of self cannot be divided. It must be given and continuously expressed towards one person.¹²⁴

There is no marriage when unity is excluded. Unity is excluded when a person in contracting marriage reserves to him/her the right to have more than one wife or one

¹²² See BEAL, “Marriage (cc. 1055–1062),” 1249; see also DOYLE, “Marriage (cc. 1055–1165),” 742.

¹²³ See BEAL, “Marriage (cc. 1055–1062),” 1249; see also ÖRSY, *Marriage in Canon Law*, 58.

¹²⁴ See DOYLE, “Marriage (cc. 1055–1165),” 742.

husband. Unity therefore it is directly opposed to polygamy and polyandry, or the sharing at one's own impulse of him or herself with other people.

Unity is related to the *bonum fidei*, because when unity is excluded fidelity no longer exists. Fidelity is necessary to establish the partnership of the whole life, to realize the good of spouses, to assure the good of children, to attain the other ends proper to marriage, and also to obtain the good of society.¹²⁵

Indissolubility is an essential property of all marriages, sacramental or natural, and a necessity derived from the notion of the covenant of marriage. Since the beginning of the Church, the Christian belief in marital indissolubility was in opposition to the Roman doctrine on marriage which allowed for dissolution of marriage simply by the withdrawal of consent by a spouse.¹²⁶

First of all, the property of indissolubility refers to the moral obligation, the duty to uphold the permanency of marriage. Secondly, it refers to the nature of the bond, meaning that it is permanent and cannot be dissolved by the will of the parties or an intervention of an external cause.¹²⁷ Indissolubility is usually qualified in further terms,

¹²⁵ See TRIBUNAL OF THE ROMAN ROTA, decision *coram* BOTTONE, 9 October 2003, in *Studia canonica*, 40 (2006), 506.

¹²⁶ See W. KOWAL and W.H. WOESTMAN, *Special Marriage Cases and Procedures: Ratified and Non-Consummated Marriage, Pauline Privilege, Favour of the Faith, Separation of Spouses, Validation, Presumed Death*, 4th rev. and updated ed., with appendices, Faculty of Canon Law, Saint Paul University, Ottawa, 2008, 4.

¹²⁷ The Council of Trent taught on indissolubility of marriage: sessio XXIV, *canones de sacramento matrimonii*, no. 7: "If anyone says the Church erroneously taught and teaches, according to evangelical and apostolic doctrine, that the bond of marriage cannot be dissolved by the adultery of one of the spouses; and that neither party, even the innocent one who gave no grounds for the adultery, can contract another marriage while their spouse is still living; and that the husband commits adultery who dismisses an adulterous wife and takes another woman, as does the wife dismissing an adulterous husband and marrying another man: let him/her be anathema" (Si quis dixerit, ecclesiam errare, cum docuit et docet, iuxta evangelicam et apostolicam doctrinam, propter adulterium alterius coniugum matrimonii vinculum non posse dissolve, et utrumque, vel etiam innocentem, qui causam adulterio non dedit, non posse, altero coniuge vivente, aliud matrimonium contrahere, moecharique eum, qui dimissa adultera aliam duxerit, et eam, quae dimissio adultero alii nupserit, a.s.), in ALBERIGO et al. (eds.), *Conciliorum œcumenicorum decreta*, 730–731, in TANNER, *Decrees of the Ecumenical Councils*, 754–755.

i.e. intrinsic indissolubility and extrinsic indissolubility. Intrinsic indissolubility of marriage (property of marital bond) means that a validly contracted marriage cannot be dissolved by the will of the parties (withdrawal of the consent). Extrinsic indissolubility of marriage means that validly contracted marriages cannot be dissolved by any external authorities or by fulfilment of certain conditions.¹²⁸ Nevertheless, the Church also teaches that while all valid marriages are intrinsically indissoluble, not all of them enjoy *absolute* extrinsic indissolubility. Pius XII addressed this question in his 1941 allocution to the Roman Rota:

[...] sacramental marriage which has been consummated is indissoluble by the law of God, so that it cannot be dissolved by any human power (*CIC*¹, c. 1118); whereas other marriages, though they are intrinsically indissoluble, still do not have absolute extrinsic indissolubility, but, under certain necessary conditions, can (it is a question, as everyone knows, of relatively rare cases) be dissolved not only by virtue of the Pauline privilege, but also by the Roman Pontiff in virtue of his ministerial power (*in virtù della sua potestà ministeriale*).¹²⁹

¹²⁸ See BEAL, “Marriage (cc. 1055–1062),” 1249.

¹²⁹ PIUS XII, allocution to the Roman Rota, 3 October 1941, no. 3, in AAS, 33 (1941), 424–425, in WOESTMAN (ed.), *Papal Allocutions to the Roman Rota 1939–2011*, 14. The Roman Pontiff in virtue of his vicarious (also called ministerial or instrumental) power which he uses personally, may dissolve unconsummated marriages between baptized persons (*matrimonium ratum non consummatum*) or between a baptized party and an unbaptized party, and also other non-sacramental marriages in favor of the faith. See KOWAL and WOESTMAN, *Special Marriage Cases and Procedures*, 12, footnote 8. The traditional canonical doctrine maintains that in exercising the vicarious power the pope acts not in his own name as head of the Church, but in the name of God or as an instrument of God, as the vicar of Christ. Capello explains in this regard: “The power, by which the Roman Pontiff dissolves a [non-consummated] ratified marriage, is not proper jurisdictional power, which he has insofar as the Church is a juridically perfect society and for that reason naturally his and thus ordinary power. It is completely special, extraordinary, indeed ministerial and instrumental insofar as it is exercised by the authority of and in the name of Christ himself; wherefore it is properly vicarious power, and in the true and strict sense divine power” (F.M. CAPPELLO, *De sacramentis*, 5th ed., vol. 5, *De matrimonio*, Turin, Marietti, 1947, no. 762, 749). Cf. A.M. ABATE, *The Dissolution of the Matrimonial Bond in Ecclesiastical Jurisprudence*, transl. by N. HYNES and G. ROBINSON, Rome, Desclée, 1962, 13. On the other hand, Navarrete rejects the distinction between the proper jurisdictional power and vicarious power, and proposes the understanding that the pope as visible head of the Church has one sacred power. See U. NAVARRETE, “Potestas vicaria Ecclesiae. Evolutio historica conceptus atque observationes attentae doctrina Concilii Vaticani II,” in *Periodica*, 60 (1971), 415–486; ID., “Observaciones al concepto y teorías actuales de la potestad vicaria del Romano Pontífice,” in *Atti del Congresso Internazionale di Diritto Canonico – Roma, 14–19 Gennaio 1970*, Milan, Dott. A. Giuffrè Editore, 1972, 949–953. Cf. also R.L. BURKE, “Il processo di dispensa dal matrimonio rato e non consumato: la grazia pontificia e la sua natura,” in *I procedimenti speciali nel diritto canonico*, Studi giuridici, no. 27, Libreria editrice Vaticana, 1992, 139–144.

The stability of the marriage bond admits, therefore, various degrees of perfection, and, consequently, the marriage bond in an unconsummated marriage between baptized persons or in a non-sacramental marriage can be dissolved by competent ecclesiastical authority under certain conditions.¹³⁰ As this authority exercises its prerogatives in the matters of divine natural law, the natural bond of marriage can be dissolved for facilitating the realization of the supreme goal, i.e. the salvation of a person, to which all natural goals must be subordinated.¹³¹

1.2.3 – Matrimonial Consent (c. 1057)

Canon 1057 refers to the efficient cause of marriage:

Canon 1057, §1. The consent of the parties, legitimately manifested between persons qualified by law, makes marriage; no human power is able to supply this consent.¹³²

There is no change from *CIC/17*, c. 1081, §1 in the text of this paragraph, but there is a change in its context. From Chapter Five, On Matrimonial Consent, in *CIC/17*, it has been transferred and incorporated among the introductory canons on marriage in 1983 Code. The canon intends to answer the question, what makes marriage? It presents two basic conditions required to establish the partnership of conjugal life: the consent of the spouses as the fundamental causal element of marriage and its legitimate

¹³⁰ For a general overview of the biblical and patristic evidence concerning the dissolution of the marriage bond and the development of respective canonical norms, see P. AMENTA, *Administrative Procedures in Canonical Marriage Cases: History, Legislation and Praxis*, transl. by M. FRANCIS and C. HANCOCK, Collection Gratianus, Montreal, Wilson&Lafleur, 2011, 9–63.

¹³¹ See W. KOWAL Power of the Church to Dissolve the Matrimonial Bond in Favour of the Faith,” in *Studia canonica*, 38 (2004), 418. “La *salus animarum* e proporzionalmente il *favor fidei*, è un principio così totalizzante da subordinare a sé tutti i valori umani, anche quelli più elevati e fondamentali, quali sono l’amore coniugale, la famiglia, la stabilità naturale del vincolo matrimoniale” (U. NAVARRETE, “‘Favor fidei’ e ‘salus animarum’,” in ID., *Quædam problemata actualia de matrimonio*, tertia editio notabiliter aucta, Rome, Pontificia Universitas Gregoriana, 1980, 516.)

¹³² Canon 1057, §1: “Matrimonium facit partium consensus inter personas iure habiles legitime manifestatus, qui nulla humana potestate suppleri valet.”

manifestation (by the qualified parties themselves and in accordance with the canonical form).¹³³

The matrimonial consent is absolutely necessary to bring a marriage into existence, but that does not mean that other factors are not important. It is a juridic act and therefore mutual exchange of consent must be a free act of the will on the part of each party.¹³⁴ Hence consent must follow the pattern prescribed by the law, and it must be enacted by persons duly qualified in law; otherwise if the unqualified person acts, it simply does not exist. The persons exchanging the consent must have the legal capacity to do so, and must act according to the prescriptions of the law.

No human being of whatever authority can supply the marital consent for another. To marry is to establish a union with another person to create a new relationship of rights and duties, therefore no one should attempt to impose such a relationship on someone who does not want it. Therefore, no one can supplement for the free and intelligent act of a human person, that means consent of marriage, because no one can make that act for another person¹³⁵ or make valid what is substantially defective (from the point of view of essential conditions derived from natural law) in the original exchange of consent. The norm of c. 1057 excludes a marital union being forced on a couple by anybody, for any reason, or any authority, like family, tribe, state, and so forth. The legislator thus states unequivocally that no one is entitled to conclude a marital agreement binding on a third party. The stress of the legislator on the basic principle expressed in c. 1057 retains its

¹³³ See L. ÖRSY, “Matrimonial Consent in the New Code: *Glossae* on Canons 1057, 1095–1103, 1107,” in *J*, 43 (1983), 31; see also J. IGNACIO, “Marriage (c. 1057),” in *Exegetical Comm*, 1066.

¹³⁴ See c. 124, §1: “For the validity of a juridic act it is required that the act placed by a qualified person and includes those things which essentially constitute the act itself as well as the formalities and requirements imposed by law for the validity of the act.”

¹³⁵ A marriage celebrated by proxy requires a special mandate to contract with a specific person issued by the mandator intending to enter marriage with a specific person (see c.1105).

importance even today when one considers the desire of parents, guardians and elders in past ages to arrange marriages, and consequently, to play an important role in the matrimonial choices of their children or those over whom they exercised authority. This not infrequently led their children to give the consent under the constraint of the social force exerted upon them by their families and communities.¹³⁶ Especially, in many parts of Africa and Asia arranged marriages were practiced in the past and are still common now. Canon law doctrine has, therefore, to address this situation. In his sentence, Sabattani explains that “[a] marriage arranged by parents for children is not invalid, if the children ratify the engagement entered on and so contract marriage. If however they do not wish to ratify the engagement and are therefore compelled by fear to wed, the marriage is null.”¹³⁷ Augustine Mendonça points to the fact that “[m]atrimonial consent is a human act, an act of a human person who is product of a particular socio-cultural environment. It is an undeniable fact that cultural factors impinge on this human act. Its effects are certainly variable depending on the nature of particular variable involved and the strength of its influence on the person concerned.”¹³⁸ Therefore, if it is proved that the matrimonial consent was not given with free will but it resulted from grave fear of parental indignation, then the marriage is invalid.

Canon 1057, §2 gives an explicit definition of matrimonial consent:

¹³⁶ See ÖRSY, *Marriage in Canon Law*, 60; see also ID., “Matrimonial Consent in the New Code,” 33–35.

¹³⁷ See TRIBUNAL OF THE ROMAN ROTA, decision *coram* SABATTANI, 20 December 1963, in *RRT Dec.*, 559 (1963), 973, English translation in *Studia canonica*, 29 (1995), 257.

¹³⁸ A. MENDONÇA, “The Importance of Considering Cultural Contexts in Adjudicating Marriage Nullity Cases with Special Reference to Countries of Southeast Asia,” in *CLSA Proceedings*, 57 (1995), 292.

Canon 1057, §2. Matrimonial consent is an act of the will by which a man and a woman mutually give and accept each other through an irrevocable covenant in order to establish marriage.¹³⁹

The second paragraph of c. 1057 has undergone a significant transformation in the process of the Code revision. In *CIC/17*, c. 1081, §2,¹⁴⁰ the object of matrimonial consent was the granting and accepting of the perpetual and exclusive right to the body ordered to acts per se apt for the generation of offspring in view of potentially generative acts. That is, the primary end alone was presented as the proper object of the consent. In c. 1057, §2, the marriage as such is named as the object of the consent of the parties and the proper object of the consent is not only the procreative dimension of marriage, but the whole of married life.¹⁴¹

Matrimonial consent is an act of the will exchanged between “a man and a woman.” In c. 1057, §2 this phrase replaces “both parties” of the old Code,¹⁴² thus immediately showing the relationship of consent and its object with the sexual dimension of a human being. The change was prompted by a desire to underscore the personal dimension of consent. Consent is no longer considered impersonally, but instead in view of a concrete man and a concrete woman, for the purpose of establishing an irrevocable covenant which affirms the indissolubility of marriage. The parties must have an intention to establish a permanent union, and they have no right, not even the capacity to revoke their commitment once it has been validly entered into. Consent given by one

¹³⁹ C. 1057, §2: “Consensus matrimonialis est actus voluntatis, quo vir et mulier foedere irrevocabili sese mutuo tradunt et accipiunt ad constituendum matrimonium.”

¹⁴⁰ *CIC/17*, c. 1081, §2: “Matrimonial consent is an act of the will by which each party gives and accepts perpetual and exclusive rights to the body, for those actions that are of themselves suitable for the generation of children” (consensus matrimonialis est actus voluntatis quo utraque pars tradit et acceptat ius in corpus, perpetuum et exclusivum, in ordine ad actus per se aptos ad prolis generationem).

¹⁴¹ See ÖRSY, “Matrimonial Consent in the New Code,” 36; see also BEAL, “Marriage (cc. 1055–1062),” 1252.

¹⁴² Cf. *CIC/17*, c. 1081, §2.

party only would be ineffective, though, at least for such time until the other also consented in accordance with the law.¹⁴³

As an irrevocable covenant, marriage is intrinsically indissoluble; it cannot be dissolved from the inside, i.e. by the parties. The spouses commit themselves not only to each other, but to the community as well. They do not cease to be social beings because they are married; marriage itself is a social event. Hence, marriage needs a public ceremony.¹⁴⁴

1.2.4 – The Natural Right to Marriage (c. 1058)

Canon 1058 expresses the natural right to marry:

C. 1058. All persons who are not prohibited by law can contract marriage.¹⁴⁵

This canon repeats *CIC/17*, c. 1035, which, however, was located at the start of the section on marriage impediments. Its present inclusion among the introductory canons on marriage serves to emphasize the fundamental nature of the right to marriage as a natural right of a person.

Canon 1058 contains, therefore, the expression of the *ius connubii*: a person's natural right to marry. It states a general principle of natural law, valid for all people, of any or no religion. Pope Benedict XVI addressed the right to marry of the faithful in his 2011 allocution to the Roman Rota:

The right to marriage, or *ius connubii* must be seen from this perspective. It is not, therefore, a subjective pretence that must be satisfied by pastors through a mere formal recognition, independently of the actual content of the union. The right to contract

¹⁴³ See BEAL, "Marriage (cc. 1055–1062)," 1251; see also ÖRSY, *Marriage in Canon Law*, 63; see cc. 1156–1160 regarding on validation of marriage; I. GRAMONT and L.A. WAUK, "Capacity and Incapacity to Contract Marriage," in *Studia canonica*, 22 (1988), 148–153.

¹⁴⁴ See ÖRSY, "Matrimonial Consent in the New Code," 38–39.

¹⁴⁵ Canon 1058: "Omnes possunt matrimonium contrahere, qui iure non prohibentur."

marriage presupposes that one can marry, and one intends authentically to celebrate marriage, that is, to do so in the truth of its essence as it is taught by the Church. No one can boast of a right to a nuptial ceremony. The *ius connubii*, in fact, refers to the right to celebrate a real marriage. The *ius connubii*, therefore, is not being denied where it is evident that the premises for its exercise are not present, that is, if the requested capacity to wed is manifestly lacking, or an objective is sought that is contrary to the natural reality of marriage.¹⁴⁶

Juan I. Bañares explains that canon 219 of 1983 Code establishes that “[a]ll Christian faithful have the right to be free from any kind of coercion in choosing a state of life.” Treating access to marriage and other states of life in the ecclesial community in the section on Christian rights has the advantage of fully accounting for recent magisterial teaching on the significance of personal commitment and the ways it can be achieved. Such treatment connects marriage with the apostolic tradition of celibacy and replaces the contrary or minimalist vision of those who rather unreflectively exalt the clerical state over the state of married life. Moreover, it more naturally indicates that the state of married life is one of the states of life in the Church, with its particular function in the Church’s reality.¹⁴⁷

The right to marriage is fundamental, grounded in human nature itself. Every person enjoys the natural right to marriage. It is rooted in the social nature of the human person and recognized by Catholic social teaching. For Christians, marriage exists for the good of the individuals and for the good of the community as well. Therefore, the right to marry and marry freely must be respected by both civil and ecclesiastical authority. Marriage is not a merely private matter that concerns only the spouses themselves. It is also a societal institution whose health and vitality have a significant impact on the common good. Consequently, both civil and ecclesiastical authorities have the right to

¹⁴⁶ BENEDICT XVI, allocution to Roman Rota, 22 January 2011, in AAS, 103 (2011), 108–111, English translation in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 165, 2011, 18.

¹⁴⁷ See BAÑARES, “Marriage (1058–1062),” 1075.

regulate the exercise of the right to marry in the interest of common good. Accordingly, for a greater good, some marriages may be prohibited by either natural or human law. Forbidding a marriage, whether due to the existence of an objective circumstance, for instance, in the case of the impediment of the disparity of cult (c. 1086) or due to some individual choices of the couple, for instance, a condition about the future placed on marriage (c. 1102, §1), is done only for serious and well-founded reasons.¹⁴⁸

Marriage exists not only for the good of the individuals, but also for the good of community. Consequently, in both civil and canon law certain prohibitions or impediments have been enacted with the effect of prohibiting marriage in certain circumstances; these restrictions, however, should not constitute an unjust denial of individual freedom but be a limitation placed on the right to marry for the good of all concerned.¹⁴⁹

1.2.5 – The Exclusive Jurisdiction of the Church over Canonical Marriage (c. 1059)

Canon 1059 states an important principle with regard to the Church's jurisdiction in the matter of marriage, including its relation to the civil authority:

Canon 1059. Even if only one party is Catholic, the marriage of Catholics is governed not only by divine law but also by canon law, without prejudice to the competence of civil authority concerning the merely civil effects of the same marriage.¹⁵⁰

The marriage of baptized persons was subject to canon law according to *CIC/17*, c. 1016.¹⁵¹ The text of c. 1059 and *CIC/17*, c. 1016 is similar, although with one major

¹⁴⁸ See KELLY, "Marriage (1055–1062)," 575.

¹⁴⁹ See BEAL, "Marriage (cc. 1055–1062)," 1254; see also DOYLE, "Marriage (cc. 1055–1165)," 742.

¹⁵⁰ Canon 1059: "Matrimonium catholicorum, est una tantum pars sit catholica, regitur iure non solum divino, se etiam canonico, salva competentia civilis potestatis circa mere civiles eiusdem matrimonii effectus."

difference: the norm now applies only to marriages in which at least one party is Catholic and not to marriages of all other baptized. When two Catholics or even one Catholic party and a non-Catholic party enter into a marriage, that marriage is governed by canon law.

On the other hand, c. 11 states that only those who have been baptized in the Catholic Church, or were received into it, are bound by merely ecclesiastical laws.¹⁵² The authority is comprehensive regarding Catholics; however, in c. 1059 the Church makes an extension of its authority to claim jurisdiction over all marriages in which one party is Catholic. Thus, a non-Catholic person, baptized or not, married to a Catholic is brought into the orbit of canonical legislation.¹⁵³

Additionally, all marriages, whether they involve Catholic spouses or not, are governed by what the Church teaches to be the divine law.¹⁵⁴ Thus, baptized non-Catholics and also unbaptized persons, even when they marry among themselves, are bound indirectly by the canonical norms defining the nature and ends of marriage, its essential properties, and the necessity and nature of matrimonial consent, since these norms are considered to derive from natural law. For the same reason, non-Catholics also enjoy the natural right to marry and, once they have legitimately entered marriage, their

¹⁵¹ See *CIC/17*, c. 1016: “Marriage of the baptized is ruled not only by divine law but also by canon [law], with due regard for the competence of civil power concerning the merely civil effects of said marriage” (*baptizatorum matrimonium regitur iure non solum divino, sed etiam canonico, salva competentia civilis potestatis circa mere civiles eiusdem matrimonii effectus*).

¹⁵² See c. 11. See also J.M. HUELS, “Ecclesiastical Laws,” in *CLSA Comm2*, 55–56.

¹⁵³ See ÖRSY, *Marriage in Canon Law*, 64–65; see also DOYLE, “Marriage (cc. 1055–1165),” 744.

¹⁵⁴ Divine law, both positive and natural, is the law of God that binds all people. The divine law consists of the immutable truths of faith, both dogmatic and moral. The divine positive law has its source in Divine revelation, as found in Scripture or the Tradition of the Church; the divine natural law is based on the order of creation and can be known by human reason. Only the supreme authority of the Church can authentically determine what constitutes a precept of the divine law. See footnote 26 in HUELS, “Ecclesiastical Laws,” 55.

unions are presumed to be valid. They are also bound by other norms of the Code that are considered to be founded in divine law.¹⁵⁵

Canon 1059 applies to persons who were once baptized in or received into full communion with the Catholic Church, but who subsequently left the Church by a formal act. Although such persons may consider themselves non-Catholics, or no longer Catholics, nevertheless, the fact of their leaving the Church by a formal act does not exempt them from the observance of ecclesiastical laws. One has to notice, however, that the Code of Canon Law of 1983 expressly provided to the contrary in certain cases:¹⁵⁶ the law exempted those who left the Catholic Church by a formal act from the regulations for mixed marriages,¹⁵⁷ the impediment of disparity of worship,¹⁵⁸ and the obligation of observing the canonical form of marriage.¹⁵⁹ However, with Benedict XVI's apostolic letter *motu proprio Omnium in mentem*, of 26 October 2009, the discipline was changed in this regard and the exceptions are no longer the case.¹⁶⁰

¹⁵⁵ For instance, marriage impediments of impotence (c. 1084, §1) or prior bond (c. 1085).

¹⁵⁶ The exceptions were in force from November 27, 1983 until April 9, 2010, the effective date of the *motu proprio Omnium in mentem* of Benedict XVI. See also PONTIFICAL COUNCIL FOR LEGISLATIVE TEXTS, Circular Letter on Formal Act of Defection from the Catholic Church, 13 March 2006, in F.S. PEDONE and P.D. COUNCE (eds.), *Roman Replies and CLSA Advisory Opinions*, 2006, 31–33; ID., Circular Letter on Formal Act of Defection from the Catholic Church, 24 November 2006, in J.J. KOURY, R. MCDERMOTT, and S.M. VERBEEK (eds.), *Roman Replies and CLSA Advisory Opinions*, 2008, 13–15; ID., Circular Letter on the *actus formalis defectionis ab Ecclesia Catholica*, 16 December 2006, in S.A. EUART and S.M. VERBEEK (eds.), *Roman Replies and CLSA Advisory Opinions*, 2009, 32–34.

¹⁵⁷ See c. 1124.

¹⁵⁸ See c. 1081, §1.

¹⁵⁹ See c. 1117.

¹⁶⁰ See BENEDICT XVI, Apostolic Letter *Motu Proprio* on Several Amendments to the Code of Canon Law *Omnium in mentem*, 26 October 2009, in AAS, 102 (2010), 8–10, Vatican English translation in S.A. EUART, J.A. ALESANDRO, and P.B.R. HARTMANN (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2010, 35–48.

The instruction *Dignitas connubii*,¹⁶¹ art. 2, §2 points to another principle of substantive law, borrowed from *CCEO*, c. 780, §2,¹⁶² namely that with regard to the question of the validity of the union, marriage between a Catholic party and a baptized non-Catholic is governed not only by canon law and divine law, but also by the proper law of the Church or ecclesial community to which the non-Catholic party belongs, if it has its own marriage law. In case that the community lacks its own marriage law, the marriage is to be governed by the law used by that ecclesial community to which the non-Catholic belongs.¹⁶³

The 1983 Code frees baptized non-Catholics from the obligations of observing merely ecclesiastical marriage laws when they marry among themselves or they marry someone who is not Catholic, but it makes no explicit provision for the regulation of these marriages by any other law, except divine law. Nevertheless, art. 4, §1 of *Dignitas connubii* indicates¹⁶⁴ that with regard to the question of the validity of the union, at the time of the celebration of the marriage the non-Catholics are subject to the laws on marriage of the Churches or ecclesial communities to which they belong or, if there is no specific law in those Churches/communities, to the law to which their Church/community

¹⁶¹ PONTIFICAL COUNCIL FOR LEGISLATIVE TEXTS, *Dignitas connubii: Instruction to Be Observed by Diocesan and Interdiocesan Tribunals in Handling Causes of the Nullity of Marriage*, 25 January 2005 (=DC), Libreria editrice Vaticana, 2005.

¹⁶² Canon 780, §1: “Even if only one party is Catholic, the marriage of Catholics is governed not only by divine law but also by canon law with due regard for the competence of civil authority concerning the merely civil effects of such a marriage. §2. In addition to divine law, marriage between a Catholic and a baptized non-Catholic is also regulated by: 1° the law proper to the Church or ecclesial community to which the non-Catholic belongs, if that community has its own matrimonial law; 2° the law that binds the non-Catholic, if it is an ecclesial community, if proper matrimonial law is lacking” (*Codex canonum Ecclesiarum orientalium, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione auctus*, Libreria editrice Vaticana, 1995, English translation *Code of Canons of the Eastern Churches: Latin-English Edition, New English Translation*, Washington, DC, CLSA, 2001). All references to the canons of the 1990 Code will be styled “CCEO, c.” for canon and “CCEO, cc.” for canons, followed by the canon number[s]).

¹⁶³ See DC, art. 2, §2, 20.

¹⁶⁴ There is an internal reference to art. 2, §2 of *Dignitas connubii*.

defers. If there is no proper law on marriage indicated, baptized non-Catholics are subject to civil law regulating marriage.¹⁶⁵

Art. 4, §2 points to the principle that, as far as the question of nullity is decided, a marriage contracted by two unbaptized persons is governed by the law by which the parties were bound at the time of the marriage. Indeed, the marriage of two unbaptized persons is governed by laws enacted by civil authority, provided these are not contrary to divine law and do not unreasonably abridge the right to marry. Thus, the unbaptized persons are bound by the impediments and lawful form of celebration in entering marriage as required by civil law.¹⁶⁶

Concerning the marriage of Eastern Catholics,¹⁶⁷ in view of its validity, the blessing of the couple by a priest (*sacerdos*) is an essential part of the celebration of marriage. Canon 832, §1 of the Eastern Code, however, allows for a marriage celebrated in an extraordinary form before witnesses alone in danger of death or outside the danger of death, if one cannot have present or have access to a priest who is competent according to the norm of law without grave inconvenience, with the condition that it is prudently foreseen that such circumstances will last for a month. In such a case, nevertheless, the spouses are to receive the blessing of the marriage from a priest as soon as possible (CCEO, c. 832, §3).¹⁶⁸ The dispensation from the obligation of observing the canonical

¹⁶⁵ See BEAL, “Marriage (cc. 1055–1062),” 1255–1256.

¹⁶⁶ See c. 22. Cf. HUELS, “Ecclesiastical Laws,” 56.

¹⁶⁷ There are very few members of Eastern Catholic Churches in Thailand, therefore the canonical discipline of the Latin Church is considered in the thesis, with only some references to the Code of Canons of Eastern Churches when it is relevant for a presentation of the subject matter.

¹⁶⁸ For some more recent discussion of the canonical form in the law of Eastern Churches, see A. SAJE, *La forma straordinaria e il ministro della celebrazione del matrimonio secondo il Codice latino e orientale*, Rome, Editrice Pontificia Università Gregoriana, 2003; ID., “Lo sviluppo della forma della celebrazione del matrimonio nella Chiesa Occidentale e nella Chiesa Orientale nel caso in cui manca l’assistente competente, in *Folia canonica*, 10 (2007), 71-85; G.D. GALLARO and D. SALACHAS, “The *ritus sacer* of the Sacrament of Marriage in the Byzantine Churches,” in *Folia canonica*, 11 (2008), 135-157;

form is reserved to the Apostolic See or the patriarch, who will, nevertheless, not grant it except for a most grave reason.¹⁶⁹

The Church claims its competence to legislate about or interpret the notion of marriage and its essential properties. Similarly, secular society specifies certain requirements for civil marriage. In c. 1059 the Church expressly indicates that the jurisdiction of civil authorities extends to the merely civil effects of marriage. They would include such matters as registration of marriage, dowry, financial arrangements between the spouses, the surname of wife and children, residence, tax status, transactions involving assets, wills, testaments and inheritances, and so forth.¹⁷⁰

It is a matter of fact that the secular laws regulating marriage are sometimes in conflict with either divine or ecclesiastical law or impose on the couple some additional requirements. For example, in Thailand solely marriages registered according to the demands of civil law have legal consequences in the eyes of the state. Therefore, it does not suffice for Catholics to follow the canonical form of marriage but they also must fulfil the civil requirements in order to have their marriage recognized by the state. On the other hand, while civil divorce proceedings may lead to a decree that the civilly recognized marriage no longer exists, the parties are still considered bound by their marriage unless the Church either dissolves the bond or declares the marriage null.¹⁷¹

John M. Huels offers a useful summary of the consequences of c. 1059. First, the marriage is governed by canon law when it involves at least one Catholic party. Second,

G. NEDUNGATT, "Minister of the sacrament of marriage in the East and the West," in *Periodica*, 90 (2001), 305-388.

¹⁶⁹ See *CCEO*, c. 835.

¹⁷⁰ See BAÑARES, "Marriage (1058–1062)," 1092.

¹⁷¹ See DOYLE, "Marriage (cc. 1055–1165)," 744.

if there are two Catholic parties, but from separate churches *sui iuris* (e.g., a Latin Catholic and a Ukrainian Catholic), the canon law of both churches is to be taken into account. Third, the marriage of non-Catholic Christians is governed by the laws of their own Church or ecclesiastical community. However, in cases where these Churches or communities do not have any proper marriage law (or they do not adopt a marriage law of another Church/community), the marriage is governed by the laws of the state. Fourth, marriages of the unbaptized are regulated by the laws of the state, including those laws of a specific religion that the state may recognize. Fifth, all marriages are subject to the divine law as interpreted by the Catholic Church; all marriages, therefore, must be free from divine law impediments, and the marriage consent must be exchanged validly.¹⁷²

1.2.6 – The Juridical Status of a Celebrated Marriage (cc. 1060–1061)

Canon 1060 furnishes a general principle how to deal with a doubt concerning the validity of marriage:

Canon 1060. Marriage possesses the favor of law; therefore, in a case of doubt, the validity of a marriage must be upheld until the contrary is proven.¹⁷³

The text of this canon has remained the same as it was in *CIC/17*, c. 1014, except for the elimination of the final phrase which stated, “[...] with due regard for the

¹⁷² See J.M. HUELS, *The Pastoral Companion: A Canon Law Handbook for Catholic Ministry*, 5th ed., Montreal, Wilson & Lafleur Ltée, 2016, 205.

¹⁷³ Canon 1060: “Matrimonium gaudet favore iuris; quare in dubio standum est pro valore matrimonii, donec contrarium probetur.”

prescription of c. 1127.”¹⁷⁴ *CIC/17*, c. 1127 was retained in the 1983 Code as c. 1150: “In a doubtful matter the privilege of faith possesses the favor of the law.”¹⁷⁵

The statement that marriage possesses the favor of the law means simply that a legally recognized marriage is presumed to be a valid union. In other words, once it has been properly celebrated, a marriage is presumed to be valid until the contrary is proven. When doubts arise about the validity of a marriage, the validity of the union is upheld until there are objective reasons and arguments presented to prove that the marriage in question is in fact invalid.¹⁷⁶

Canon 1060 reflects the legal principle that in case of doubt the validity of the action stands. Indeed, the presumption of validity of marriage is a particular application of the general principle of law, expressed in c. 124, §2 that “[a] juridic act placed correctly with respect to its external elements is presumed valid.”¹⁷⁷ The presumption is considered necessary from the viewpoint of community to protect the stability of marriage.¹⁷⁸ Therefore, c. 1060 seeks to balance the good of the parties with the good of the community and to affirm the sanctity and stability of the institution of marriage. The canonical doctrine proposed this principle as also applying to what is called “marriage in possession,” which refers to the situation in which although the fact of the marriage

¹⁷⁴ “Marriage enjoys the favor of law; therefore, in doubt the validity of marriage is to be upheld until the contrary is proved, with due regard for the prescription of canon 1127” (*matrimonium gaudet favore iuris; quare in dubio standum est pro valore matrimonii, donec contrarium probetur, salvo praescripto can. 1127*).

¹⁷⁵ “In re dubia privilegium fidei gaudet favore iuris.” See also BAÑARES, “Marriage (1058–1062),” 1093.

¹⁷⁶ See DOYLE, “Marriage (cc. 1055–1165),” 744.

¹⁷⁷ “Actus iuridicus quoad sua elementa externa rite positus praesumitur validus.”

¹⁷⁸ The presumption helps to quell the possible doubts of over-scrupulous spouses about the validity of their marriage and directs them to make sincere efforts to overcome difficulties in married life and carry out marital obligations. See BEAL, “Marriage (cc. 1055–1062),” 1256.

celebration could not be formally established, nevertheless the parties considered themselves to be properly married and they were regarded as such by the community.¹⁷⁹

The nature of the norm of c. 1060 was discussed at length in the revision process of the 1917 Code.¹⁸⁰ Despite the fact that the norm is not of divine origin, it serves to safeguard the demands of the divine law concerning the essential properties of marriage. The presumption of the validity of marriage belongs to the category of presumptions of laws, and it is a simple presumption. This means that it can be overturned by canonically acceptable proof of the contrary being true. The method and nature of contrary proof is determined by procedural law.¹⁸¹

Canon 1060 refers to the situation of a doubt (*dubium*) concerning a particular marriage. Hence, in the case of doubt the validity of a marriage is upheld until the fact of invalidity of that marriage is proven. In the present social climate concerning marriage, it has been proposed, however, that the *favor matrimonii* “[...] should give way to the *favor personae* (favour of the person) or the *favor veritatis subiecti* (favour of the truth of the subject) or the *favor libertatis* (favour of freedom).”¹⁸² In his article of 2008, Wojciech Kowal argued that the presumption of the validity of a marriage in the case of a doubt constitutes an indispensable element of the canonical doctrine, required also by the objective principles of formal logic. Therefore, the postulate of reversing the presumption of the validity of marriage (and it seems that attempts at reversing the

¹⁷⁹ See *ibid.*

¹⁸⁰ See *Communicationes*, 9 (1977), 128.

¹⁸¹ See c. 1432, c. 1425, §2, 1° and c. 1684.

¹⁸² JOHN PAUL II, allocution to Roman Rota, 29 January 2004, no. 2, in *AAS*, 96 (2004), 349 English translation in *L'Osservatore Romano*, English ed., 11 February 2004, 3.

presumption of c. 1060 periodically revive in the canonical milieu) faces fundamental difficulties regarding the logic of canonical argumentation.¹⁸³

Canon 1060 relates thus to c. 1085, §2 which deals with a celebration of subsequent marriage.¹⁸⁴ Consequently, even when there are serious doubts raised about the validity of a given marriage, a celebration of a new marriage is not permitted until the invalidity of the previous marriage has been demonstrated legitimately and according to the norm of law, or the previous marriage has been lawfully dissolved.¹⁸⁵ Therefore, if a Catholic would perchance re-marry according to the canonical form after the divorce, but before a declaration of nullity had been granted, thus violating the norm of c. 1085, §2, the subsequent marriage might still be valid depending on the fact, if the previous marriage was in reality invalid. If it was in fact invalid, then the new subsequent marriage would not need any convalidation.¹⁸⁶

Canon 1150 provides an exception to the principle expressed in c. 1060:

In case of doubt, the privilege of the faith possesses the favor of the law.¹⁸⁷

¹⁸³ See W. KOWAL, "The Presumption of the Validity of Marriage," in *Studia canonica*, 42 (2008), 203.

¹⁸⁴ Canon 1085, §2: "Even if the prior marriage is invalid or dissolved for any reason, it is not on that account permitted to contract another before the nullity or dissolution of the prior marriage is established legitimately and certainly" (*quamvis prius matrimonium sit irritum aut solutum qualibet ex causa, non ideo licet aliud contrahere, antequam de prioris nullitate aut solutione legitime et certo constiterit*).

¹⁸⁵ A doubt about the validity of a marriage does not exclude a possibility of granting the dissolution of the (doubtful) bond: "If either in the process at the level of the Bishop or during the examination at the Congregation for the Doctrine of the Faith, there arises a positive doubt on the basis of any grounds about the validity of the marriage for which a dissolution is being sought, the petition to the Roman Pontiff should make mention of such a doubt" (CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Normæ de conficiendo processu pro solutione vinculi matrimonialis in favorem fidei* Potestas Ecclesiæ, April 30, 2001, art. 10, E civitate Vaticana, 2001, 10, the English translation with a commentary in KOWAL and WOESTMAN, *Special Marriage Cases and Procedures*, 110.

¹⁸⁶ See BEAL, "Marriage (cc. 1055–1062)," 1256; see also J.P. BEAL, "Diriment Impediments Specifically (cc. 1083–1094)," in *CLSA Comm2*, 1287.

¹⁸⁷ Canon 1060: "In re dubia privilegium fidei gaudet favore iuris."

The principle expressed in c. 1150 is applicable only to dissolution of an existing bond of a non-sacramental of marriage in virtue of the law itself¹⁸⁸ or through the intervention of the Roman Pontiff, and not in the context of marriage nullity trials. The following is the list of situations in which the principle of c. 1150 can be used, but one must be certain that at least one of the parties was not baptized during their entire conjugal life:

if there is a doubt about the subsequent baptism of the other party after their final separation (c. 1149); if there is a doubt concerning the validity of a certainly non-sacramental marriage, e.g., because of the doubtful validity of marriage consent, the existence of an impediment; if there is a doubt as to who was the first spouse in a polygamous marriage; if there is a doubt concerning the interpellation, sufficient reason for a dispensation, the sincerity of the reply; if there is a doubt as to whether the convert was the unjust cause of the other party's departure.¹⁸⁹

Canon 1061 gives an explanation of terms used in canon law to describe marriage:

Canon 1061, §1. A valid marriage between the baptized is called *ratum tantum* if it has not been consummated; it is called *ratum et consummatum* if the spouses have performed between themselves in a human fashion a conjugal act which is suitable in itself for the procreation of offspring, to which marriage is ordered by its nature and by which the spouses become one flesh.¹⁹⁰

A valid marriage between two (validly) baptized persons which has not yet been consummated after the couple have validly exchanged consent is called “merely ratified marriage” (*matrimonium ratum tantum*). The term *ratum* means that the union is considered by the Church as a valid sacramental covenant. The notion does not contain any judgement on the internal quality of the interpersonal relationship. For a just cause,

¹⁸⁸ See cc. 1143–1149.

¹⁸⁹ KOWAL and WOESTMAN, *Special Marriage Cases and Procedures*, 80.

¹⁹⁰ Canon 1061, §1: “Matrimonium inter baptizatos validum dicitur ratum tantum, si non est consummatum; si coniuges inter se humano modo posuerunt coniugalem actum per se aptum ad prolis generationem, ad quem natura sua ordinatur matrimonium, et quo coniuges fiunt una caro.”

a merely ratified marriage can be dissolved at the request of one of the spouses; consequently, the mutual obligations of the couple cease.¹⁹¹

A ratified marriage is called consummated (*ratum et consummatum*), if sexual intercourse took place after the exchange of consent. The act of intercourse is more than sexual contact. It is the most intimate expression of human love as GS, no. 49 states: “[m]arried love is uniquely expressed and perfected by exercise of the acts proper to marriage.”¹⁹² Indeed, c. 1061, §1 states that marriage is ordered to the act of consummation.

A ratified and consummated marriage cannot be dissolved by any human power or for any cause other than death (c. 1141).¹⁹³ The sequential order of ratification and consummation is, however, critical. Thus, no matter how frequently a couple has had sexual relations prior to marriage, or during an invalid marriage, or before it has become sacramental by the baptism of both spouses, these incidents of sexual relations do not

¹⁹¹ Cf. c. 1142: “For a just cause, the Roman Pontiff can dissolve a non-consummated marriage between baptized persons or between a baptized party and a non-baptized party at the request of both parties or of one of them, even if the other party is unwilling.”

¹⁹² See GS, no. 49, in AAS, 58 (1966), 1069–1070, *FLANNERY*1, 952–953.

¹⁹³ In his allocution to the Roman Rota of January 21, 2000, Pope John Paul II responded to what he considered “[...] an increasingly widespread idea that the Roman Pontiff’s power, being the vicarious exercise of Christ’s divine power, is not one of those human powers referred to in the canons cited above [CIC, c. 1141; CCEO, c. 853], and thus it could be extended in some cases also to the dissolution of ratified and consummated marriages. In view of the doubts and anxieties this idea could cause, it is necessary to reaffirm that a ratified and consummated sacramental marriage can never be dissolved, not even by the power of the Roman Pontiff” (JOHN PAUL II, allocution to the Roman Rota, 21 January 2000, no. 6, in AAS, 92 [2000], 353, in *Papal Allocutions to the Roman Rota 1939–2011*, 257). For a commentary on this papal pronouncement, see, for instance, J. KOWAL, “L’indissolubilità del matrimonio rato e consumato: status quaestionis,” in *Periodica*, 90 (2001), 273–304. Concerning the theological qualification of this teaching, John Paul II concluded that “[...] the non-extension of the Roman Pontiff’s power to ratified and consummated sacramental marriages is taught by the Church’s Magisterium as a doctrine to be held definitively, even if it has not been solemnly declared by a defining act” (JOHN PAUL II, allocution to the Roman Rota, 21 January 2000, no. 8, in AAS, 92 [2000], 355, in *Papal Allocutions to the Roman Rota 1939–2011*, 258).

constitute the *consummation of a ratified marriage*, and, as long as the marriage remains non-ratified, it can, under the conditions specified in the law, be dissolved.¹⁹⁴

The revised Code has defined the conjugal act by which marriage is consummated as one which is suitable in itself for the procreation of offspring. This expression has a long history. *CIC/17*, c. 1015, §1 defined the act by which marriage is consummated as a conjugal act to which the matrimonial contract is by its nature ordered¹⁹⁵ and by which the spouses become one flesh.¹⁹⁶

The first paragraph of c. 1061 explains that in order to consider a ratified marriage as consummated, the spouses have “in a human manner” (*humano modo*)¹⁹⁷ to engage together in a conjugal act in itself apt for the generation of children. The precise meaning of this expression was discussed at the 1986 Plenary Meeting of the Sacred Congregation for the Sacraments and the conclusion reached was submitted to and approved by Pope John Paul II. The accepted meaning is:

For a marriage to be consummated it is necessary that there be a human act on the part of both spouses; it is sufficient for it to be virtually voluntary, provided that it was not extorted through violence. No weight is given to other psychological elements which render the act easier or more loving.¹⁹⁸

¹⁹⁴ See BEAL, “Marriage (cc. 1055–1062),” 1257; see also DOYLE, “Marriage (cc. 1055–1165),” 745.

¹⁹⁵ *CIC/17*, c. 1081, §2 when describing the nature of the act of marriage consent refers to “perpetual and exclusive rights to the body, for those actions that are of themselves suitable for the generation of children.” See also BEAL, “Marriage (cc. 1055–1062),” 1258.

¹⁹⁶ *CIC/17*, c. 1015, §1: “The valid marriage of the baptized is called *ratified* if consummation has not yet been completed; [it is called] *ratified and consummated* if between the spouses there has occurred a conjugal act that by its nature is ordered to the marriage contract and by which the spouses are made one flesh” (*matrimonium baptizatorum validum dicitur ratum, si nondum consummatione completum est; ratum et consummatum, si inter coniuges locum habuerit coniugalis actus, ad quem natura sua ordinatur contratus matrimonialis et quo coniuges fiunt una caro*).

¹⁹⁷ See GS, no. 49, in AAS, 58 (1966), 1069–1070, *FLANNERY*1, 952–953.

¹⁹⁸ CONGREGATION FOR THE SACRAMENTS, *De processu super matrimonio rato et non consummato*, 20 December 1986, prot. no. 1400/86, English translation in KOWAL and WOESTMAN, *Special Marriage Cases and Procedures*, Appendix I, 200.

R. Melli, the under-secretary of the Sacred Congregation for the Sacraments,¹⁹⁹ has stated that “[...] no longer is the mere fact of sexual intercourse considered to consummate a marriage, independently of its being a human act or with no consideration given to its being performed freely and knowingly, without force and unjustly.”²⁰⁰ The psychological factors which may render this human act easier and more desirable are not considered as having juridical value.²⁰¹

Canon 1061, §2. After a marriage has been celebrated, if the spouses have lived together consummation is presumed until the contrary is proven.²⁰²

The second paragraph of canon 1061 establishes a presumption regarding consummation of marriage: if the spouses have lived together after the celebration of their marriage, consummation is presumed. As a presumption of law, it admits proof to the contrary.²⁰³ Therefore, couples who have cohabited after their marriage and who subsequently claim that their marriages were never consummated bear the burden of proving non-consummation. If a couple has not cohabited after their wedding, consummation is not presumed but must be proven. The fact of non-consummation must be proven with moral certainty. Such proof includes three possible components: the lack of opportunity for having a sexual intercourse, the physical argument pointing to the

¹⁹⁹ The name of this dicastery is now Congregation for Divine Worship and the Discipline of the Sacraments.

²⁰⁰ R. MELLI, “Breve commentarium ad litteras circulares ‘De processu super matrimonio rato et non consummato’ missas a Congregatione pro Sacramentis die 20 decembris 1986,” in *Monitor ecclesiasticus*, 112 (1987), 431.

²⁰¹ Ibid.

²⁰² Canon 1061, §2: “Celebrato matrimonio, si coniuges cohabitaverint, praesumitur consummatio, donec contrarium probetur.”

²⁰³ See BAÑARES, “Marriage (1058–1062),” 1102–1103.

impossibility of having sexual intercourse apt for consummation of marriage, and the moral argument that consummation did not in fact take place.²⁰⁴

Canon 1061, §3. An invalid marriage is called putative if at least one party celebrated it in good faith, until both parties become certain of its nullity.²⁰⁵

For a marriage to be called putative it is necessary that at least one of the parties entered into the marriage in good faith. It includes a situation when one or both of the parties were unaware of the existence of an undispensed impediment, a defect of consent, or a condition which causes incapacity to fulfill marital obligations or other invalidating factors. A party may also be in good faith if he or she was aware of the condition giving rise to an impediment, for instance, the bond of a prior marriage, but was unaware of its invalidating effect. However, the party who claims to have been in good faith must prove²⁰⁶ that he or she was unaware of the invalidating effect of a specific juridic condition.

Putative marriage to be considered as such must first be celebrated according to the required form and, thus have the appearance of a valid marriage. In particular, when a Catholic enters marriage without following the requirements of the canonical form and with no dispensation from its observance, this attempted marriage is considered non-existent as opposed to putative. Conversely, if the canonical form was substantially defective, for instance, the visiting priest who assisted at the marriage had no necessary delegation, the marriage would be considered putative.

²⁰⁴ See BEAL, “Marriage (cc. 1055–1062),” 1258; see also KOWAL and WOESTMAN, *Special Marriage Cases and Procedures*, 32.

²⁰⁵ Canon 1061, §3: “Matrimonium invalidum dicitur putativum, si bona fide ab una saltem parte celebratum fuerit, donec utraque pars de eiusdem nullitate certa evadat.”

²⁰⁶ See c. 15, §2: “Ignorance or error about a law, a penalty, a fact concerning oneself, or a notorious act concerning another is not presumed; it is presumed about a fact concerning another which is not notorious until the contrary is proven.”

Indeed, the response of the Pontifical Commission for the Interpretation of the Code, of 29 January 1949,²⁰⁷ regarding c. 1015, §4 of the 1917 Code,²⁰⁸ which c. 1061, §3 repeats, made it clear that marriage celebrated in this context means “celebrated before the Church” (*coram Ecclesia*). The Pontifical Commission makes the following assumptions: first of all, the first criterion for applying the expression should be that of form, specifically determined as the canonical form of the celebration of the marriage. Second, for this purpose the condition of parties as Catholics, non-Catholics, baptized or not, would not be relevant when they enter into the putative marriage. Third, those who are obliged to follow the canonical form, and - in good or bad faith - enter into marriage outside canonical form, whether ordinary or extraordinary, are not included in this notion. Fourth, the norm applies even in the case of a marriage entered into with a defect of canonical form as long as that does not impede the requirement of good faith by at least one of the parties.²⁰⁹

In conclusion, it is clear that the first element of the notion of putative marriage must be understood to be linked to the objectivity of the formal type of celebration. On the other hand, the second element explicitly refers to the subjective will of the parties when it requires that marriage be celebrated “in good faith by at least one party.” In this case, “in good faith” is meant to indicate that either both parties or at least one party, when celebrating marriage before the Church, must hold the conviction that they are truly becoming the spouse of the other party.

²⁰⁷ PONTIFICAL COMMISSION FOR THE INTERPRETATION OF THE CODE, *Responsa ad proposita dubia*, in AAS, 41 (1949), 158, English translation in *Canon Law Digest (=CLD)*, vol. 3, 405.

²⁰⁸ *CIC/17*, c. 1015, §4: “Invalid marriage is called putative if it has been celebrated in good faith by at least one of the parties, until both parties are convinced of its nullity.”

²⁰⁹ See BAÑARES, “Marriage (1058–1062),” 1103–1104.

The practical dimension of a putative marriage is basically related to the legitimate filiations of any offspring conceived; it means that any children born in this marriage are considered legitimate.²¹⁰ A putative marriage also enjoys the favor of the law. It remains putative until both spouses become certain of its nullity. Thus, the spouses' doubts, even grave doubts, about the validity of their marriage are not sufficient to deprive it of its status as putative. While it may happen that the spouses come to a firm conviction about the invalidity of their marriage because of the undisputable existence of an impediment for which the dispensation has not been granted, nevertheless most couples become certain that their marriage was invalid only after the affirmative decision of a Church tribunal.²¹¹

1.2.7 – The Promise of Marriage (c. 1062)

The betrothal or engagement is a social affair in most contemporary societies. The institution of the formal engagement has enjoyed a long tradition. The Mosaic law gave juridic force to an engagement. Medieval Germanic law also accorded a specific legal status to engagement to the extent that infidelity while engaged was considered adultery. While in Roman law, an engagement was considered as a wife purchase, in the Church it came to be understood as a promise of marriage in the future. Therefore, engagement has historically been regulated by laws setting requirements for its validity and liceity, the

²¹⁰ See *ibid.*, 1104.

²¹¹ See BEAL, "Marriage (cc. 1055–1062)," 1258–1259; see also DOYLE, "Marriage (cc. 1055–1165)," 745–746.

form in which the promise of marriage was to be made, the dowry, the effects of an engagement, and the requirements for its valid and lawful termination.²¹²

Canon 1062, §1. A promise of marriage, whether unilateral or bilateral, which is called an engagement, is governed by the particular law established by the conference of bishops, after it has considered any existing customs and civil laws.²¹³

Canon 1062, §1 represents a simplification of the more detailed prescriptions of c. 1017, §§1, 2 of the 1917 Code,²¹⁴ especially of the established form of celebrating promise which was unique to the Latin Church. The legislator recognizes that even though nowadays the institution of engagement is used less frequently than in earlier periods, it is reasonable to retain a juridical regulation that defines its limitations. First of all, since it depends upon collective custom and personal preferences, some of the faithful may wish to have a formal engagement. It is definitely a consensual act in both origin and content and linked to a will to marry. It is a unilateral or bilateral commitment supported by a will to enter into marriage in the future with a determined person. Henceforth, one may conclude that engagement has the following features: firstly, it is the fruit of the act of free will. Secondly, its direct object is to express a will to enter into marriage. Thirdly, it may be understood to be a right derived from the right to marry in the process of forming the will before entering into marriage. The promise included in the engagement produces certain juridical effects related to a possible future marriage. For all the above

²¹² See BEAL, “Marriage (cc. 1055–1062),” 1259; see also SIEGLE, *Marriage according to the New Code of Canon Law*, 21–22.

²¹³ Canon 1062, §1: “Matrimonii promissio sive unilateralis sive bilateralis, quam sponsalia vocant, regitur iure particulari, quod ab Episcoporum conferentia, habita ratione consuetudinum et legum civilium, si quae sint, statutum fuit.”

²¹⁴ *CIC/17*, c. 1017: “§1. A promise of marriage, whether unilateral or bilateral, that is, an engagement, is invalid in either forum unless it was made in writing, signed by the parties and by either the pastor or the local Ordinary, or at least by two witnesses. §2. If either or both parties do not know how to write or are unable to [write], for its validity, this fact is to be put in writing, to which is added another witness who with the pastor or local Ordinary and two witnesses, mentioned in §1, sign in writing.”

reasons, the legislator has retained the juridical treatment of engagement, while accommodating it to the needs of and/or suitability for the present time.²¹⁵

The present legislation uses the term “promise” rather than contract or covenant when referring to the engagement. It is a promise that marriage will take place in the future and has a moral force but does not legally bind one to marry against his or her will. The task of regulating engagements is left to particular law, to be enacted by conferences of bishops for their own territories. Presently, conferences of bishops in the English-speaking world do not regulate engagements. For example, on 1 December 1999, the National Conference of Catholic Bishops of the United States stated its intention to issue no norms regarding the engagement as mentioned in canon 1062, §1, without prejudice, however, to the prescriptions of canon 1062, §2 regarding an action for reparation of damages.²¹⁶ The possible subject matter to be considered by particular legislation might include a liturgical rite for engagement, the form in which promises are to be made, witnesses to the promises, the role of parents in entering an engagement, and even questions related to dowry. Particularly in societies where the engagement remains an important social institution, particular law governing engagements should take into account local customs and pertinent civil law.²¹⁷

Canon 1062, §2. A promise to marry does not give rise to an action to seek the celebration of marriage; an action to repair damages, however, does arise if warranted.²¹⁸

²¹⁵ See BAÑARES, “Marriage (1058–1062),” 1105–1106.

²¹⁶ See USCCB, “United States Conference of Catholic Bishops: Complementary Legislation to the Code of Canon Law,” in *J*, 73 (2013), 284.

²¹⁷ See BEAL, “Marriage (cc. 1055–1062),” 1259; see also DOYLE, “Marriage (cc. 1055–1165),” 746.

²¹⁸ Canon 1062, §2: “Ex matrimonii promissione non datur action ad petendam matrimonii celebrationem; datur tamen ad reparationem damnorum, si qua debeatur.”

The norm speaks the wisdom of Roman law: canon law will not force anyone to marry a person even if there will be some damage if the marriage will not take place. For those who suffered damage because of the promise to marry, an ecclesiastical court is willing to consider the issue of liability.²¹⁹

While an engagement is expected to be a serious and morally binding promise to marry, it does not give rise to a legally enforceable right. Thus, a broken engagement does not give the disappointed fiancé an action or a right to sue in ecclesiastical tribunal to compel to the other party into the celebration of the marriage. To authorize an ecclesiastical tribunal to compel unwilling persons to honor promises to marry that they have now retracted would endanger the freedom that is essential for true marital consent.²²⁰ Nevertheless, a disappointed fiancé may approach an ecclesiastical tribunal to recoup material damages suffered as a result of a broken engagement,²²¹ if there was an exchange of monetary or other gifts in view of the wedding. In fact, there exist civil jurisdictions which regulate betrothals and permit actions for fraud, breach of promise of marriage, and compensation for material loss.²²²

Therefore, if the legislation by the conference of bishops has canonized civil law on this point, civil law should be followed. If there is no civil law or legitimate custom on the matter, and a specific norm has been established, that norm will have to be followed. On a more practical note, since an action to repair damages in this particular context usually involves patrimonial or pecuniary matters, the couple must especially take into

²¹⁹ See ÖRSY, *Marriage in Canon Law*, 70.

²²⁰ See cc. 219 and 1103.

²²¹ See BEAL, "Marriage (cc. 1055–1062)," 1259–1260.

²²² See DOYLE, "Marriage (cc. 1055–1165)," 746. Another question is, how successful that suit for damages might be before an ecclesiastical tribunal, taking into account that the ecclesiastical justice system has no effective means of enforcement of its decisions.

account the fact that the secular state has more means available to address effectively the harmful effects that may be derived from failure by one of the parties to fulfill the promise.²²³

Conclusion

The Catholic Church doctrine on marriage has been developing from age to age and led to a better understanding of the meaning of marriage. The Second Vatican Council, which developed some major features of the Church's teaching on marriage, marked a watershed in the Church's understanding of this sacrament. Marriage is no longer presented as a contract having as its object the exchange of rights over the body, but it is rather presented as a covenant, whereby a community of conjugal life and love is established, ordered to the well-being of the spouses and to the generation and education of the children.

The Church's theology of marriage explains that conjugal love is fully human, total, fecund and in conformity to moral precepts. The two great realities of married life are the marital love and responsible parenthood. Marriage between two baptized persons is not only a natural union, but a sacramental marriage: a union raised by Christ to the sacramental level. Thus, the family is a domestic church, marriage is a vocation, and the couple are called to holiness in their married life.

In the modern world, a number of mixed marriages is increasing, thus the pastoral care of these marriages is an ever-important concern of the Church. In case of disparity of worship marriages, especially in the mission countries where Catholics are not the

²²³ See BAÑARES, "Marriage (1058–1062)," 1108.

majority of the population, the preparation and care of these marriages is a priority. The Church should help the Catholic party know how to live their faith in daily life and support the practice of their faith in adverse situations. It is also an opportunity to evangelize the other party who professes a different faith.

Divorced and remarried couples are increasing in number in the present day. This concerns also Catholic couples. The Church must consider carefully the pastoral care of these families. Many who find themselves in this situation feel they are no longer a welcome member of the Church. Thus, diocesan bishops, priests, parishes, other married couples and associations of families all need to extend special pastoral care to this particular group.

The Church's theology of marriage as developed by the Second Vatican Council is reflected in the 1983 Code of Canon Law. It is a fact of life that canons on marriage are those which are applied most often in the daily life of the faithful. They can be difficult to comprehend and somewhat complicated in their application. However, not all questions can be answered in the law; specific cultural circumstances need to be properly addressed.

CHAPTER TWO

THE CONCEPT OF MARRIAGE IN BUDDHISM WITHIN THAI SOCIETY

Introduction

This chapter presents first an overview of the history and culture of Thailand in order to help the reader understand the concept of marriage in Thai society. This overview is important due to the fact that Thailand was never colonized by any European country. As a result, there has been no direct influence of European thought or of Christian religion and culture on Thai society.

Buddhism permeated the social life of the Thai people, although the first political entities were also influenced by Hinduism. In fact, Thai culture shows a unique mixture of Indian customs and Thai native features.¹ An analysis of the Buddha's teaching addressed to married people, with its focus on happiness, social morality, and mutual duties of the couple, enhances one's understanding of marriage in Thai society.

Secondly, this chapter will present the current understanding of marriage including the institution of civil marriage, marriage traditions, and the traditional Thai wedding ceremony. This will serve to compare the Buddhist concept of marriage with Catholic teaching, especially with regard to the nature and purpose of marriage, legal requirements for the celebration of marriage, and particular challenges for Catholics marrying with Buddhists in Thailand.

This part of the thesis, at times involving a detailed presentation of the Buddhist religious and social tenets, is deemed essential for a fuller understanding of

¹ See P.P. MISHRA, *The History of Thailand*, The Greenwood Histories of the Modern Nations, Santa Barbara, CA, ABC-CLIO, LLC, 2010, 1.

preconceptions which the Buddhist spouses bring into their marriages with Catholics. The analysis of the specific religious and cultural background of Buddhists in Thailand shows numerous instances when their views on marriage coincide with the Christian understanding and also shows the points of substantial disagreement which should become the focus of attention for the pastoral action of the Church in Thailand.

It should also be mentioned that the presentation of the Buddhist religious thought follows the lines typical for the Buddhist writings; not necessarily the standards expected in Western academic works would be fully applicable to concepts which may not be elaborated in accordance with rigorous logic and clarity.

2.1 – Understanding of Marriage in Buddhism

Currently, Thailand is considered a Buddhist country. Because approximately 95% of the people in Thailand are Buddhists,² Buddhism has a very significant influence on Thai society. The main principle of Buddhist teaching is toleration on all matters including religious beliefs. Indeed, non-Buddhists are expected to follow their own faiths without any constraints whatsoever.

2.1.1 – The Religious and Cultural Milieu of Thailand

Thailand,³ “land of the free,” is a Southeast Asian country. The Chao Praya River Valley in Western Thailand is the place where Thai civilization and history have

² THE PUBLIC RELATION DEPARTMENT, *Buddhism in Thai Life*, Bangkok, The Publication of Foreign Language Documents of the National Identity Board, 1981, 1.

³ Thailand, officially named Siam before 1939, was renamed Thailand after the Second World War. See “Note on Transliteration and Thai Names,” in A. KISLENKO, *Culture and Customs of Thailand*, London, Greenwood Press, 2004.

their roots.⁴ A distinct epoch in Thai history known as “the Bangkok period” began with the establishment in 1782 of the Chakri dynasty which continues its reign today. A policy of modernization and the diplomatic talents of the ruling class, combined with the blessing of geographical isolation kept Thailand free from colonial conquests during the nineteenth century, although there were some territorial concessions to the British and French.⁵

Internal political difficulties gave rise to the revolution of 1932, after which the political system was changed to a constitutional monarchy. In recent history the country has been subjected to frequent struggles between democratic tendencies and military dominance.⁶

Buddhism is a religion that has no concept of God or a Saviour. A Buddhist must seek his or her own salvation, because salvation is not given to him or her otherwise. All evil deeds can be absolved.⁷ All believers must take their refuge in the triple gems, which are the Buddha, the *Dharma*⁸ and the *Sangha*.⁹ Thus all Buddhists must have faith in the

⁴ See MISHRA, *The History of Thailand*, 1.

⁵ See *ibid.*

⁶ See *ibid.*, 1–2.

⁷ See L. SUMITRA, *Theravada Buddhism of Thailand*, Bangkok, The Buddhist Association of Thailand, 1970, 1.

⁸ “*Dharma* (Pāli, *Dhamma*) is etymologically derived from the Sanskrit root *dhr* meaning ‘to bear or support.’ It is a term of great significance with three main meanings. First, it refers to the natural order or universal law that underpins the operation of the universe in both physical and moral spheres. Secondly, it denotes the totality of Buddhist teachings, since these are thought to accurately describe and explain the underlying universal law so that individuals may live in harmony with it. It is in this sense that it occurs as one of the ‘three jewels’ (*triratna*) and the ‘three refuges’ (*triśarana*), along with the Buddha and the *Sangha*. Thirdly, it is used in the *Abhidharma* system of taxonomy to refer the individual elements that collectively constitute the empirical world” (D. KEOWN, *A Dictionary of Buddhism*, New York, Oxford University Press, 2003, 74).

⁹ “*Sangha* or *Samgha* (Sanskrit; Pāli, group of collection): the Buddhist community, especially those who have been ordained as monks (*bhikṣu*) and nuns (*bhikṣuṇī*) but originally referring to the fourfold *sangha* of monks and nuns, laymen (*upāsaka*) and laywomen (*upāsika*)” (*ibid.*, 247).

Buddha, understand the teaching of Buddha, the *Dharma*, and must respect and support the Order of *Sangha*.

As a religious belief, Buddhism is gentle and philosophical in its approach to the world. It spreads peacefully from country to country; and due to an excess of tolerance, it tended to adopt, or failed to contest, the rival claims of the indigenous beliefs, however crude.¹⁰

Under the impact of conflicting ideologies and practices, Buddhism, like other religions, is divided. There are three main schools: first, the Theravada Buddhism, which means “the teaching of the elders,” is sometimes called “Southern Buddhism,” where the Theravada school is found. This form of Buddhism has become the main one accepted in the lands of Southeast Asia: Myanmar, Cambodia, Laos, Sri Lanka, and Thailand. Second, the Mahayana Buddhism, which means “a great vehicle,” is sometimes referred to as Northern Buddhism. It developed as Buddhism travelled north and east from India and it is widely accepted in Pakistan, Nepal, China, Korea, Japan, and Vietnam. And third, the Tantrayana Buddhism, which means “an esoteric vehicle,” is accepted in Tibet, Mongolia, and parts of Siberia.¹¹

The Theravada has a fixed body of canonical literature, a clearly structured institutional distinction between secular and religious ways of living, and a long history. However it is criticized for its narrow concept of enlightenment and conservative elements insisting on the upholding of a rather stringent code of behavior. Theravada is

¹⁰ See SUMITRA, *Theravada Buddhism of Thailand*, 1.

¹¹ See THE PUBLIC RELATION DEPARTMENT, *Buddhism in Thai Life*, 7.

the only early Buddhist school of the Hinayana,¹² which means “a lesser vehicle to *nirvana*,”¹³ to have survived to the modern times.

The Mahayana on the other hand seems to be a diffuse and vastly complex combination of many sects. The Mahayanists believe that their goal is enlightenment, not just for oneself alone as in Theravada, but for all beings.

The Tantrayana is the most developed of the Mahayana schools. It incorporates the whole of the Theravada and the Mahayana into its teachings by accepting the fundamental spiritual principles of the Theravada and absorbing the ideal of the Bodhisattva¹⁴ from the Mahayana. The Bodhisattva is the one who vows to lead all beings to *nirvana* by practicing perfection through thousands of millions of lives.¹⁵

Emperor Asoka¹⁶ sent his missionaries, Sona and Uttara, to Davaravati, which was probably the present day Nakorn Pathom,¹⁷ to build the first pagoda, and teach

¹² “*Hinayana* (Sanskrit, lesser vehicle): a collective name used disparagingly by Mahayana Buddhists for the schools of early Buddhism which preceded the Mahayana” (KEOWN, *A Dictionary of Buddhism*, 107).

¹³ “*Nirvana* (Pāli, *nibbana*): the *summum bonum* of Buddhism and goal of the Eightfold Path. The attainment of *nirvana* marks the end of cyclic existence in *samsara*, the condition to which it forms the antithesis, and in the context of which *nirvana* has to be understood. *Samsara* is thus the problem to which *nirvana* is the solution. The word *nirvana* is formed from the negative suffix *nir* and a Sanskrit root which may be either *va*, meaning ‘to blow’ or *vr*, meaning ‘to cover.’ Both connote images of extinguishing a flame, in the first case by blowing it out and in the second by smothering it or starving it of fuel” (KEOWN, *A Dictionary of Buddhism*, 195). “*Samsara* (Sanskrit; Pāli, flowing on): the cycle of repeat birth and death that individuals undergo until they attain *nirvana*. The cycle like the universe, is believed to have no beginning or end and individuals transmigrate from one existence to the next in accordance with their *karma* or moral conduct” (ibid., 248).

¹⁴ “*Bodhisattva* (Sanskrit; Pāli, Bodhisatta): the embodiment of the spiritual ideal of Mahayana Buddhism, in contrast to the earlier Arhat (one who has attained the goal of enlightenment or awakening) ideal advocated by the *Hinayana*. *Bodhisattva* literally means ‘enlightenment being’ but the correct Sanskrit derivation may be ‘bodhi-sakta’ meaning ‘a being that is orientated towards enlightenment’ ” (KEOWN, *A Dictionary of Buddhism*, 38).

¹⁵ See THE PUBLIC RELATION DEPARTMENT, *Buddhism in Thai Life*, 7.

¹⁶ King Asoka was one of the greatest men in history of India. He was the grandson of Chandragupta, an army officer, who defeated the Greek force left in India and founded an Indian Empire. See SUMITRA, *Theravada Buddhism of Thailand*, 23.

¹⁷ One of the central provinces of Thailand, a suburb of Bangkok.

Theravada Buddhism. In about B.E. 1300,¹⁸ the king of Srivijaya, in Sumatra, brought the Mahayana from the south of Thailand to Lop Buri.¹⁹ Then, circa B.E. 1600 BE, King Anurudh of Myanmar conquered Davaravati, and introduced Theravada Buddhism. Finally, in B.E. 1900, the king of Sukhothai²⁰ brought a Buddhist missionary from Ceylon (Sri Lanka). Buddhism was solidified as the Thai national religion when the kings of Thailand began entering the priesthood themselves.²¹

2.1.2 – The Meaning and Purpose of Marriage

From the Buddhist point of view, marriage is neither holy nor unholy. Buddhism does not regard marriage as a religious duty or a sacred rite. Marriage is basically a personal and social obligation, although it is not compulsory: a man and a woman have the freedom either to get married or to remain single.²²

Given the history of Thailand, there is a variety of beliefs and practices in the Buddhist religion. The understanding of marriage also varies under the influence of factors such as customs, societal changes, and politics. Buddhist tradition generally regards marriage as a civil matter; therefore, Buddhist elements always adjust to, and are not separated from, local custom.²³

¹⁸ Thailand uses the Buddhist calendar called *Phutthasakkarat*. Thai calendars have fixed the difference between their Buddhist Era (B.E.) numbering and the Christian/Common Era (C.E.) numbering at 543.

¹⁹ A province of Thailand, about 150 kilometers northeast of Bangkok.

²⁰ An early kingdom in the area around the city Sukhothai, north of Thailand.

²¹ See SUMITRA, *Theravada Buddhism of Thailand*, 26.

²² See K.S. DHAMMANANDA, *A Happy Married Life: A Buddhist Perspective*, Singapore, KEPMEDIA International Pte Ltd, 2007, 10.

²³ See J. RENARD, *Responses to 101 Questions on Buddhism*, New York, Paulist Press, 1999, 137.

2.1.2.1 – Dharma for Married People: Happiness and Social Morality

The follower of Buddhism finds all necessary advice to help him or her lead a happily married life from an enlightened teacher. In the Buddha's discourses there are various kinds of advice for married couples and for those who are contemplating marriage. In particular, the Buddha said that, "If a man can find a suitable and understanding wife and a woman can find a suitable and understanding husband, both are fortunate indeed."²⁴

The Buddha's teachings also state that for those who are unable to cope with the rigours of the celibate monastic life, the status of married householder is recommended. Buddhism has traditionally held celibate monasticism in the highest regard, but it has also seen marriage and family life as highly suitable for those who cannot commit themselves to celibacy, and as an area in which many worthwhile qualities are nurtured.²⁵

Basically, the teachings of Buddha call for renunciation of earthly concerns expressed as the living of a "homeless life." An old *Sutra*²⁶ says that the Buddha himself told his disciples:

Then I, monks, after a time, being young, my hair coal-black, possessed of radiant youth, in the prime of my life – although my unwilling parents wept and wailed – having cut off my hair and beard, having put on yellow robes, went forth from home into homelessness.²⁷

²⁴ See DHAMMANANDA, *A Happy Married Life*, 12.

²⁵ See P. HARVEY, *An Introduction to Buddhist Ethics: Foundations, Values, and Issues*, Cambridge, Cambridge University Press, 2000, 103; see also D. KEOWN and C.S. PREBISH (eds.), *Encyclopedia of Buddhism*, London and New York, Routledge, 2007, 682.

²⁶ "Sutra (Sanskrit; Pāli, *sutta*, a thread): A discourse of the Buddha. In the Pāli Canon these texts are grouped together in the second of the three baskets (*pitaka*) or divisions of the teachings, namely the *Sutra Pitaka*. This in turn is divided into five collections known as *Nikayas* (*Agamas* in Sanskrit), in which the *suttas* are grouped in order of length" (KEOWN, *A Dictionary of Buddhism*, 283).

²⁷ *Majjhima-Nikaya*, 26th discourse, English translation in I.B. HORNER, *The Collection of the Middle Length Sayings: Majjhima-Nikaya*, vol. 1, London, The Pāli Text Society, 1976, 207.

As these words show, his Great Renunciation meant, firstly, the renunciation of home life. The homeless life, however, does not mean the renunciation of home life only; it means entering the life of a houseless wanderer apart from home life. To be apart from home life has to be construed to mean the throwing away of every earthly concern, of all property, and of all attachments.²⁸

As a way of life Buddhism was meant primarily for monks. Monastic men have been the main bearers and preservers of the Buddhist tradition and have been teachers, guides, and examples to the laity.²⁹ The Buddha taught his disciples that the monastic life is placed generally at a higher level of virtue than lay life. Even though there were lay men and women followers from an early date, there was no doubt of monkish and male superiority. However, the lay people who did not join the order of monks in this life could hope to be reborn³⁰ as monks in the next life.³¹

Because the Buddha felt that the life of a householder was somewhat spiritually cramping, he believed it was difficult for a layperson to live a holy life. Thus a layman's life is referred to as a "crowded life," one with a wife and children. It is said that if either a lay person or one who is a monk or nun is rightly practising Buddhism, he or she is on the right path. One cannot say automatically that a monk or nun is on the right path and a lay person is not. Nevertheless, a householder leads "a busy life" with many

²⁸ See F. MASUTANI, *A Comparative Study of Buddhism and Christianity*, Tokyo, Kenkyusha Printing Co., 1967, 37.

²⁹ See HARVEY, *An Introduction to Buddhist Ethics*, 89. The term "laity" is used to designate all those who are not monks.

³⁰ Buddhists believe that a person is reborn after death. This idea is pre-Buddhism and the notion is widespread in Indian religions, which believe in a continuity of the individual from one life to the next. See KEOWN, *A Dictionary of Buddhism*, 235.

³¹ See G. PARRINDER, *Sex in the World's Religions*, New York, Oxford University Press, 1980, 44.

responsibilities, and so cannot give as consistent attention to moral and spiritual matters as one who is ordained a monk or a nun.³²

Although Buddhism acknowledges that an ordinary lay man or woman with a family has “a crowded life,” and thus can hardly attend to moral and spiritual matters, there are numerous references in Buddhist literature to men and women living ordinary, normal family lives who successfully practised what the Buddha taught, followed his teaching faithfully, and attained spiritual heights. Indeed, the Buddha himself categorically stated that there were many laymen and women leading a family life who could also follow his teaching and attain perfection.³³

While Buddha regarded the celibate monastic life as the higher ideal, he still recognized married life as an important social institution.³⁴ He did not intend to make laws or to prescribe a code of behaviour, including the one for married couples, suitable for only one society. He did not lay down a minimum age to marry, or describe a marriage ritual; nor did he prescribe monogamy or polygamy. Rather, he opened up an enquiry into what is noble and religious in a husband and in a wife.³⁵

The Buddha sought to find a deeper explanation of human nature. Therefore he asked the questions: “What is true nobility?” and “What is true religious duty in society and in marriage?” To answer them, he recognised and accepted the sexual nature of men and women as the most deep-rooted instinct of all. He did not judge nor condemn it, but he pointed out that it can be managed in three ways. First of all, one may live dependent

³² See HARVEY, *An Introduction to Buddhist Ethics*, 91.

³³ See W.S. RAHULA, *What the Buddha Taught*, rev. ed., New York, Grove Press, 1974, 77.

³⁴ See KEOWN, *A Dictionary of Buddhism*, 174.

³⁵ See J. PRICKETT (ed.), *Living Faiths: Marriage and the Family*, Cambridge, Lutterworth Press, 1985, 46.

on his sexuality in a way which generates rightful worldly pleasure and happiness. For this reason, men and women are deeply dependent upon one another. Secondly, one may live so as to create pain and suffering through all the abuses and perversions of sexuality when lust, greed, and hatred rule it. Thirdly, one may live neither depending on his real nature, nor ignoring it and therefore becoming free of dependence on it. Men and women are naturally drawn together by the sexual instinct to create pleasure and contentment.³⁶

The Buddha abolished the whole idea of religion as a caste privilege. He stressed that a truthful, loving, pure peasant is noble, and that a cruel, greedy, adulterous aristocrat is ignoble. He taught clearly that the virtue of a man and the virtue of a woman were not different in nobility and reward. Each member of a society has a part to play. The nobility of the part played is measured by the degree to which the person avoids harm to others, does not steal, does not commit adultery, and does not lie.

These ethical qualities are also basic to society and to relationships free from fear in which the parties are free to grow. It is a mutual understanding that “what is mine, is mine and what is yours, is yours,” which creates security along with truthfulness.

A good society, which will serve also as a rich field for the development of the higher religious life, is based upon the wise and loving discipline of these basic human relationships.³⁷

An important aspect of the Buddha’s teaching refers to the question of happiness of married people. The Buddha that there are four things which are conducive to a man’s happiness in this world:

First: he should be skilled, efficient, earnest, and energetic in whatever profession he is engaged, and should know it well (*uttbana-sampdad*); second: he should protect his

³⁶ See *ibid.*

³⁷ See *ibid.*, 47.

income, which he has thus earned righteously, with the sweat of his brow (*arakkha-sampadd*) (this refers to protecting wealth from thieves, etc. All these ideas should be considered against the background of the period); third: he should have good friends (*kalayana-mitta*) who are faithful, learned, virtuous, liberal and intelligent, who will help him along the right path away from evil; and fourth: he should spend reasonably, in proportion to his income, neither too much nor too little, i.e., he should not hoard wealth avariciously, nor should he be extravagant – in other words, he should live within his means (*samajivikata*).³⁸

Then Buddha expounds the four virtues conducive to a layman's happiness hereafter:

(1) *Saddha*: he should have faith and confidence in moral, spiritual and intellectual values; (2) *Sila*: he should abstain from destroying and harming life, from stealing and cheating, from adultery, from falsehood, and from intoxicating drinks; (3) *Caga*: he should practice charity, generosity, without attachment and craving for his wealth; (4) *Panita*: he should develop wisdom which leads to the complete destruction of suffering, to the realization of *Nirvana*.³⁹

In Buddhist culture there is no prearranged marriage, however the parents' wishes are very important. The betrothal of two young people is not just a casual or private affair. It means the joining of two great family groups, who will be related in one extended family network. All relatives linked on both sides through that marriage should offer one another company and friendship, business partnership, and any other kind of support. The choice in marriage is certainly based on love but there also is a greater responsibility to unite and to uphold the welfare of so many people. Still, the wishes of the young couple come first.⁴⁰

The Buddha had also a specific teaching, *Dharma*, for married people with regard to social morality. The *Sigalovada Suttanta*⁴¹ shows great respect for the layman's life,

³⁸ RAHULA, *What the Buddha Taught*, 82–83; see also *Anguttara-Nikaya*, text iv, verses 280–287, in *AN*, vol. 4, 187–189.

³⁹ RAHULA, *What the Buddha Taught*, 83; see also *Anguttara-Nikaya*, text iv, verses 280–287, in *AN*, vol. 4, 190.

⁴⁰ See PRICKETT (ed.), *Living Faiths*, 61.

⁴¹ “*Sigalovada Suttanta* (also known as The Sigala Homily): The 31st discourse of the *Digha Nikaya* of the *Pāli Canon*, often referred to as the house holder's *Vinaya* since it contains practical moral advice for the laity. It is one of the few discourses to address the topic of lay ethics” (KEOWN, *A Dictionary of Buddhism*, 267).

family, and social relations. A text of the *Pāli Canon*⁴² reveals that in the noble discipline of the Buddha's teaching the "six directions" occupy a prominent place:⁴³

The following should be looked upon as the six quarters: parents as the east, teachers as the south, wife and children as the west, friends and companions as the north, servants and work people as the nadir, religious teachers and Brahmins as the zenith.⁴⁴

Consequently, one should worship these six directions. The use of the word "worship" is very significant in this context, for worship is something sacred, something worthy of honour and respect. These six family and social groups mentioned above are treated in Buddhism as sacred and worthy of respect and worship. Buddha taught that one could worship them only by performing one's duties towards them. These duties are explained in his discourse to Sigala.⁴⁵

In five ways a child should minister to his parents as the eastern quarter: – Once supported by them I will now be their support; I will perform duties incumbent on them; I will keep up the lineage and tradition of my family; I will make myself worthy of my heritage.

In five ways parents thus ministered to, as the eastern quarter, by their child, show their love for him: they restrain him from vice, they exhort him to virtue, they train him to a profession, they contract a suitable marriage for him, and in due time they hand over his inheritance.

Thus is this eastern quarter protected by him and made safe and secure.

[...] In five ways should a wife as western quarter be ministered to by her husband: by respect by courtesy, by faithfulness, by handing over authority to her, by providing her with adornment.

In these five ways does the wife, ministered to by her husband as the western quarter, love him: her duties are well performed, by hospitality to the kin of both, by faithfulness, by watching over the goods he brings, and by skill and industry in discharging all her business.

Thus is this western quarter protected by him and made safe and secure.

⁴² "*Pāli Canon* (Sanskrit; Pāli, *Tripitaka*), 'Three baskets' - collective name for the Buddhist canon of writings which consists of a threefold collection of sacred text, namely: 1) *The Sutra Pitaka* or Basket of Discourses; 2) the *Vinaya Pitaka* or Basket of Monastic Discipline; 3) The *Abhidharma Pitaka* or Basket of Higher Teachings" (KEOWN, *A Dictionary of Buddhism*, 309).

⁴³ See RAHULA, *What the Buddha Taught*, 78.

⁴⁴ *Digha-Nikaya*, the 31st discourse, iii, verse 188–189, in *DN*, 180.

⁴⁵ See RAHULA, *What the Buddha Taught*, 78.

Husbands are told to have a mother-mind, daughter-mind, or sister-mind toward all women other than their wives, depending on their age,⁴⁶ as a safeguard to chastity. As for individual roles within the family, tradition has a good deal to say about those of mother and daughter. The place of mothers in Buddhist society has been somewhat ambiguous. On the one hand, motherhood confers authority; on the other, motherhood carries a certain stigma associated with sexual activity, from which only the mothers of Buddhists and Bodhisattvas are free. Mothers are described as like Bodhisattvas in the way they feel compassion for their children. In the traditional teaching, daughters must follow the example of their mothers in curbing their carnal weakness.⁴⁷

There is a natural order of seniority in the Buddhist family. Basically, it is a patriarchal society, in the sense that men are usually expected to lead the family business. The Buddha also stressed the moral equality and interdependence of men and women, each one taking his or her honoured place in society. Age is also respected. The Buddha prescribed the very same recipe for success in the family, the community of monks, and the state. Given the orderly relations that arise from mutual respect of senior and junior, the family should meet often to talk and discuss, fully and freely, with the firm intention of arriving at an agreement; and they should stay together until they have done so.⁴⁸

⁴⁶ Treating them as if they were his mother, daughter or sister.

⁴⁷ See RENARD, *Responses to 101 Questions on Buddhism*, 139–140.

⁴⁸ See PRICKETT (ed.), *Living Faiths*, 61.

2.1.2.2 – Mutual Duties of the Couple

A significant part of the Buddha's teachings concern the mutual duties of the spouses. In the pre-Buddhist times the status of women in India was definitely low. A daughter was nothing but a source of anxiety to her parents. The husband regarded his wife simply as a child-bearer, spending her life in complete subservience to him and his parents. During the Buddhist epoch a significant change occurred that allowed women to enjoy a greater level of equality, respect, and authority than ever before. It was impossible for the men, steeped as they were in the Buddhist teaching, not to respond to the constant display of women's powers of devotion, self-sacrifice, courage and endurance in daily life. Men ceased to regard women as a lower class than themselves and became more aware of the equality between men and women. The Buddha gave the *Dharma* to both; he also gave talks to the householders and their wives. A woman, as a wife, was no longer considered only the household drudge, she had authority in the home, and ranked as her husband's helpmate, companion, and guardian. In matters both temporal and spiritual she was regarded as his equal and worthy of respect.⁴⁹

With honour, the husband places his wife first in his care and in his duties, in every way. He treats her as a priest treats the sacrificial fire; her life and well-being are his reason for existence.

A married couple being faithful to each other is a clearly determined demand. The Buddha taught that from the moment of marriage, all women other than wife are to be regarded as mother, sister, or daughter, according to their age. Marriage is a partnership in which the two spouses each take up specific work in order to fulfill the aims of the

⁴⁹ See I.B. HONER, *Women under Primitive Buddhism*, Amsterdam, Phil Press, 1975, 1–3.

partnership. A wife is given full authority over her own work by her husband. He should seek to please and beautify his wife, and to give her open and affectionate signs of his care and admiration.

The Buddha explained these duties on one occasion when he was talking to a man. He stressed the man's duty to earn, to secure the family, and to protect his livelihood and honour. Then he showed that for the woman there is also a down-to-earth approach to married life, and a lazy wife will not create happiness.

The wife has the duty of creating a pleasing and hospitable home. She also is to be totally chaste and faithful, to protect the sincerity and confidence of the marriage. She has a major part to play in organising the family economic welfare. Thus the Buddha looked in a very pure and practical way at what will make a marriage work regardless of age, class, or race.⁵⁰

The Buddha explained the meaning of a rich and mature relationship in marriage when a lady named Sujata asked him what kind of a wife she should be. The Buddha taught her that there are four roles which the wife potentially fulfills in addition to those mentioned above. In the first role, she watches over her husband with loving sympathy, like a mother. In the second role, she holds him in respect and quietly honours him, like a younger sister. In the third role, she is as glad to see and be with him at any time as a best friend. In the fourth role, she is as obedient and loyal as a faithful family servant. Some wives develop one or another of these roles, in accordance with their natural

⁵⁰ See PRICKETT (ed.), *Living Faiths*, 47–48.

predispositions and the quality of their relationship with their husbands, while others fulfill all of them.⁵¹

The Buddhist teaching on duties owed to society mentions that the householders must promote intimacy and affection for one another by making mutual donations, speaking without malice or rancour, behaving in a way beneficial to both sides, with no selfish motive and exhibit manners which would be natural and even at all times.⁵² Consequently, in accordance with the Buddhist teaching on social duties, husband and wife should respect and support each other in their family life.

The basis of the Buddhist teaching on marriage is that every action, word and thought vibrates with the sense of welfare. Married life is a unique balance of enlightened self-interest, and unselfish devotion forming a partnership between husband and wife.

Marriage is by no means undertaken for the benefit of the partners alone. In the Buddhist tradition, the couple undertake to maintain and care for their partners and for their children. They accept as their couple duties the roles of elder or younger brother or sister. They are also ready to support any member of their extended families, and if necessary, open their home to them. Each is to know, remember, and treat with kindness the employees, colleagues, and partners of the other. They seek to create a society of good friends who also live to protect one another's life, prosperity, and reputation.

Marriage grows from understanding, not impulse; from true loyalty, not indulgence. Marriage is a response to the needs of many, not just the private satisfaction

⁵¹ See *Anguttara-Nikaya*, wives, text iv, verse 91–93, in *AN*, vol. 4, 56–58; see also PRICKETT (ed.), *Living Faiths*, 48–49.

⁵² See SUMITRA, *Theravada Buddhism of Thailand*, 66.

of two. Marriage enables prosperity, culture, and protection from loneliness to be sustained from generation to generation.⁵³

Within the marriage, the Buddha recognises the need for different roles, through which each partner develops strengths to complement the other, provide support and appreciation. There is no sense whatsoever of either man or woman being superior; superiority is revealed by loyalty, gentleness, generosity, calm, and dedication to the Noble Path. Therefore, the well-being of society is rooted in the lifelong disciplines of these relationships.

The Buddha shows that a distinctive value of married life consists of the opportunity they offer one another to develop virtue and understanding. There is a story in *Anguttara-Nikaya* about the wife. She who is not concerned with herself; she reminds her husband how their life together has developed to provide both with a calm and secure basis for spiritual growth.⁵⁴

All Buddhist training is based on being prepared to meet things and people as they are, and to act resourcefully with confidence and generosity. Buddhists are convinced that rigid teachings about sex, about male or female roles, about rights and privileges are most likely to generate opinion, friction, covetousness, and disappointment. Buddhists believe that there are no training schemes for marriage or for sex education that can actually do anything to replace a good family.

To sum up the Buddhist view of marriage: married life is a balanced, moderate way to navigate a testing and unsatisfactory world through patient daily awareness and

⁵³ See PRICKETT (ed.), *Living Faiths*, 49.

⁵⁴ See *Anguttara-Nikaya*, text iii, verse 295-298, in *AN*, vol. 3, 212-214.

love. This path is for those who seek to journey their way through difficulties and limitations establishing virtues, patience, and concentration and developing wisdom.⁵⁵

2.1.2.3 – Unity and Indissolubility

Catholic teaching on marriage states that the essential properties of marriage are unity and indissolubility. However, these notions are understood and applied differently in Buddhist teachings.

During the Buddha's period, the general practice was monogamous marriage. Although there was no rule against, or condemnation of polygamy, public opinion on the subject was fluid, and meted out neither praise nor blame.⁵⁶

Indeed, in Buddhism, the practice of monogamy is the currently preferred and predominant marital model although Buddhism also tolerates polygamy,⁵⁷ and sometimes polyandry.⁵⁸ There is much local variation in marriage patterns across the Buddhist world. Early written sources mention a variety of marriage models existing in India at the time of Buddhism; whether these marriages were based on love or money, were considered permanent or temporary, problems such as jealousy frequently arose between co-wives.⁵⁹ Polygamy was granted as a customary right of kings, nobles, and anyone who could afford to support more than one wife. It is not apparent that there was any limit to

⁵⁵ See PRICKETT (ed.), *Living Faiths*, 49–51.

⁵⁶ See HONER, *Women under Primitive Buddhism*, 35.

⁵⁷ “The state of being simultaneously married to more than one spouse; multiple marriages” (B.A. GARNER [ed.], *Black's Law Dictionary*, 7th ed., St. Paul, MN, West Group, 1999, 1180).

⁵⁸ “The condition or practice of having more than one husband” (ibid).

⁵⁹ See HARVEY, *An Introduction to Buddhist Ethics*, 101.

the number of wives that a man might have; but there is evidence to show that most men did in fact limit themselves to one wife.⁶⁰

The *Jākata*⁶¹ story presents polygamy as the natural course to adopt. In the story, four suitors wooed the four daughters of a certain Brahmin. One of the suitors was virtuous, one noble, one beautiful, and one elderly. It actually would be a simple proposition for the Brahmin to have allotted one of his daughters to each of suitors, but he only entertained the thought of selecting one suitor and presenting him with all four daughters. It is said that he told the Buddha of his difficulty in choosing, and far from being discouraged in this polygamy, he elicited from the Teacher his own predilection for virtue.⁶²

Until 1910, Thai kings had many wives. The great reformist ex-monk King Mongkut had twenty-seven official wives as well as around a hundred concubines or female servants. In Burma, at that time, King Mindon had fifty-three recognized wives and many concubines. Today, in rural Thailand, marriages are almost entirely monogamous. A few well-to-do farmers may have more than one wife but this is more common in urban areas. If a second wife is taken, the first wife must give permission and is senior to the second. Each is usually provided with her own living quarters to manage

⁶⁰ See HONER, *Women under Primitive Buddhism*, 35.

⁶¹ “*Jākata* (Pāli): A genre of early literature describing the former lives of Gautama Buddha, and the title of the tenth book of the *Khuddaka Nikaya* of the *Sutra Pitaka* of the *Pāli Canon*. Since *Jākata* legends occur in the canon these must have been consistently recognized in Buddhist literature and constitute an old and widespread tradition, as shown by the fact that *Jākata* scenes are found depicted in early sculptures” (KEOWN, *A Dictionary of Buddhism*, 125).

⁶² See HONER, *Women under Primitive Buddhism*, 36.

independently. In 1935, an attempt was made to formally register marriages and to eliminate polygamy, but it had a little effect.⁶³

As the Buddha's way of teaching was to explain the situation and consequences rather than to lay down rules which people were forced to follow, each of his followers could decide for himself or herself why certain things are good and certain things are bad. The Buddha did not indicate how many wives a man should have. However, if the laws of a country stipulate that marriages must be monogamous, then such laws must be followed, because the Buddha was explicit that his followers respect the laws of a country if those laws were beneficial to all.

There is also some indication that in the Buddha's time women were allowed to remarry. While Buddhism has no religious objection to divorce, it is not a frequent event because of social pressures against it. The actual practice among Buddhists today varies; just as marriage between Buddhists is generally a civil matter, so is divorce. However, early tradition specified several limits. Adultery or other forms of infidelity were sufficient cause for either partner to divorce the other. Beyond adultery, the wife had no right to initiate divorce, but the husband could divorce his wife on the grounds of infertility or incompatibility. This marks an advance for women over prevailing Hindu custom, which allowed a husband to divorce a wife merely because of disobedience, unproductive labor, chronic illness, or because she bore him only daughters.⁶⁴ To sum up,

⁶³ In pre-modern Japan, polygamy was a form of marriage. The 1868 Meiji Code recognized monogamy as the rule, however. Polyandry, in the form of one woman marrying several brothers, has existed as one of the forms of marriage recognized in some areas of Tibetan culture. See HARVEY, *An Introduction to Buddhist Ethics*, 101–102.

⁶⁴ See HARVEY, *An Introduction to Buddhist Ethics*, 103; see also RENARD, *Responses to 101 Questions on Buddhism*, 138–139.

Buddhists accept divorce because they regard marriage as a civil matter. Hence if divorce is legal in a particular country, Buddhists are allowed to divorce.

2.1.2.4 – Marital Morality

While developing *dana*,⁶⁵ a Buddhist develops his or her own personal ethical virtue by observing self-discipline and keeping certain precepts. The most commonly observed set of precepts followed by lay people are the five precepts found in *Anguttara-Nikaya*.⁶⁶ The first precept corresponds to the Hindu and Jain concept of *ahimsa*⁶⁷, non-injury, the second demands avoiding stealing and cheating (this precept also covers fraud, cheating, forgery, and falsely denying that one is in debt to someone),⁶⁸ the third concerns avoiding sexual misconduct, relating primarily to the avoidance of causing suffering by one's sexual behavior (adultery, understood as having sexual relations with the wife of another, is the most straightforward breach of this precept),⁶⁹ the fourth consists of not participating in lies and other forms of wrong speech (it is equivalent to the "right action" of the Noble Eightfold Path;⁷⁰ keeping the fourth precept is equivalent to the "right speech),⁷¹ and the fifth precept calls for sobriety⁷¹

⁶⁵ "*Dana* (Sanskrit; Pāli): Generosity, a key Buddhist virtue which is both a source of great merit and also instrumental in overcoming selfishness and attachment" (KEOWN, *A Dictionary of Buddhism*, 69).

⁶⁶ See *Anguttara-Nikaya*, text iv, verse 369, in *AN*, vol. 4, 245; see also HARVEY, *An Introduction to Buddhist Ethics*, 66–67.

⁶⁷ "*Ahimsa* (Sanskrit, non-harming, non-violence): moral principle of non-violence and respect for life found in many strands of Indian religion but particularly emphasized in the *Sramana* schools such as Jainism and Buddhism" (KEOWN, *A Dictionary of Buddhism*, 6). See also HARVEY, *An Introduction to Buddhist Ethics*, 69.

⁶⁸ See *ibid.*, 69–71.

⁶⁹ See *ibid.*, 71–74.

⁷⁰ The Noble Eightfold Path is the middle way of practice that leads to the cessation of suffering. The Path has eight paths: 1) right view or understanding, 2) right resolve, 3) right speech, 4) right action, 5) right livelihood, 6) right effort, 7) right mindfulness and 8) right concentration or unification. See *ibid.*, 37.

⁷¹ See *ibid.*, 77–79.

Adultery, included in the third precept is of greatest concern when considering marital morality. The Buddha had very definite views on chastity and he placed much stress on the virtue of continence.

In the Buddhist *Dharma*, the ideal of self-taming, to be attained by effort, energy, and endeavour, is vitally important:

[i]f one man conquers in battle a thousand times thousand men, and if another conquers himself, he is the greatest of the conquerors.
One's own self conquered is better than all other people; not even a *deva*, a Grandharva, not Mara with Brahman could change into defeat the victory of man who has conquered himself, and always lives under restraint.⁷²

This is the keystone of Buddhist ethics. The ideal man should control his own mind such that, with reference to chastity, he regards all women who are not his wife as his mother, sisters, or daughters according to their age.⁷³

Chastity⁷⁴ of both husband and wife was taught in classical Buddhism. The Buddha spoke openly to Dhammika, one of his followers, in plain words:

Let the wise men avoid an unchaste life, as he would a burning heap of coals; if he cannot live a life of chastity he should not transgress with another man's wife.⁷⁵

The Buddha himself provided the perfect example of conduct: at the age of twenty-nine he turned his back on his family life and remained celibate for the rest of his days. The Buddha said that he knew of nothing that overpowers a man's mind so much as a woman's mind. Such advice is, perhaps, best seen not as evidence of a misogynist streak in Buddhism but as a realization of the danger posed by sexual desire to members

⁷² *Dhammapada*, verses 103–105, English translation in F.M. MÜLLER (trans.), *The Sacred Books of the East: The Dhammapada*, Delhi, Motilal Banarsidass, 1965, 31–32.

⁷³ See HONER, *Women under Primitive Buddhism*, 63–64.

⁷⁴ Chastity is a state of not having sex with anyone, or of only having sex with one's own husband or wife. See C. COBUILD, *Advanced Learner's English Dictionary*, 5th ed., HarperCollins Publishers, 2006, 228.

⁷⁵ *Sutta-Nipata*, verse 395, English translation in V. FAUSBÖLL (trans.), *The Sacred Books of the East: The Sutta-Nipata*, Delhi, Motilal Banarsidass, 1965 (=SN), 65.

of a celibate community. The Buddha makes similar points about female sexual desire, warning of the danger of the desires women feel for men. Although women are said to be a snare of Mara,⁷⁶ it is basically neither woman nor man who are the problem, rather the sexual desire created by the physical proximity of the genders. This binds both to *samsara* and they cannot enter into *nirvana*.⁷⁷

The third precept of moral conduct, avoiding sexual misconduct, governs the behaviour of husband and wife and prohibits misconduct in things sexual. As the understanding of adultery varies according to the marriage patterns of different societies, Buddhism has been flexible in adapting to the social conditions. The simple rationale for the precept regarding adultery is the following: you would not like someone to commit adultery with your wife, so do not commit adultery with someone else's wife, this is specially applied to adultery in *Sanyutta Nikaya*.⁷⁸ Thus one should not go with others' women who are as dear to them as life. Adultery with a woman without her husband's knowledge, or even with his compliance, still breaks the precepts due to the malicious nature of the act. Moreover, the precept is extended to intercourse with any woman who is, in modern parlance, in a relationship with another man or with a woman who is protected by a relative, or vulnerable young girls not protected by a relative.

Other general moral Buddhist teachings also have a bearing on sexual behaviour. For example, rape, paedophilia, sexual harassment, and incest are precluded by the principle of *ahimsa* which requires that one should not intentionally harm another person

⁷⁶ "Mara: the Buddhist devil. Technically a god, Mara is the enemy of the Buddha and constantly tries to disrupt his teaching in order to prevent beings from reaching *nirvana* where they would be beyond his grasp" (KEOWN, *A Dictionary of Buddhism*, 173).

⁷⁷ See KEOWN and PREBISH (eds.), *Encyclopedia of Buddhism*, 682.

⁷⁸ "*Sanyutta Nikaya* (Pāli): the Connected Discourses; the third of the five divisions of the *Sutra Pitaka* of the *Pāli Canon*. It consists of 7,762 *suttas* arranged thematically in 56 groups, called *sanyuttas*" (KEOWN, *A Dictionary of Buddhism*, 250).

physically or emotionally. Further, all relationships, including sexual ones, should be governed by the virtues of love, kindness, and compassion. The Golden Rule would counsel that the person should not do anything to others that he would not like done to himself.⁷⁹

The Buddhist teaching on the third precept mainly focuses on the various circumstances under which it is broken by men. For women, the discussion is shorter and more direct. Theravadin Bhikkhu Bodhi says that a married woman should have intercourse only with her husband, and no woman should have intercourse with men who are close relatives. Sexual activity by non-married adult women is not seen as a breach of the precept.⁸⁰

2.1.2.5 – Marriage as a Secular Contract of Partnership

As with so many other beliefs and practices, those associated with marriage vary a great deal from one culture to another. The various forms of marriage arrangements found among Buddhists are determined more by local custom than by Buddhist teachings and such matters are seen as essentially the responsibility of secular authorities.

Ancient Buddhist tradition suggests that young women generally should marry between the ages of 16 and 20. Daughters were often regarded as unwelcome burdens. It was said that after girls reached the age of sixteen they yearn and long for men, and their parents hasten to marry them off before they elope.⁸¹

⁷⁹ See *Sanyutta-Nikaya*, verse 354, in F.L. WOODWARD (trans.), *The Book of the Kindred Sayings (Sanyutta-Nikaya)*, part 5, London, Luzac & Company, LTD., 1965, 309.

⁸⁰ See HARVEY, *An Introduction to Buddhist Ethics*, 71–72; see also KEOWN and PREBISH (eds.), *Encyclopedia of Buddhism*, 682–683.

⁸¹ See RENARD, *Responses to 101 Questions on Buddhism*, 137–138; see PARRINDER, *Sex in the World's Religions*, 54; see also KEOWN and PREBISH (eds.), *Encyclopedia of Buddhism*, 682.

The practice of arranged marriages, in which the prospective spouses have little or no prior contact, is largely cultural. The arranged marriage is a family affair and Hindu customs of consulting astrologers were firmly rejected by Buddhists, at least in classical times. As referred to in early Buddhist texts, marriages were generally, but not always, arranged and were rarely in conflict with a daughter's own wishes. There was a variety of temporary or permanent arrangements entered into for emotional and economic reasons; the parents were seen as arranging a marriage out of love for their daughter. In fact, in Myanmar and Thailand, marriages continue to be arranged by a young woman's parents, taking her wishes into account. If permission was refused by the parents, elopements were often recognized.⁸²

In Thai Buddhist tradition, parents consider it their duty to get their children married when they come of age. A partner is selected by the parents who pay due consideration to the marriage ceremony that takes place on a fixed date by the water-pouring ceremony.⁸³ The father of the bride provides the dowry, chiefly of clothes and jewelry, and the rich may add many other items including slaves and cattle. The arranged marriage is the customary method of the transfer of ownership of the dowry items and it is accepted as legally valid. Customarily, the husband is head of the union, but either partner may possess private property as his or her separate and sole concern.⁸⁴

Though Buddhism does not regard marriage as indissoluble or permanent, nevertheless once the marriage takes place, a man is expected to look after his wife and

⁸² In Japan, beginning with the 1600's, arranged marriages were traditional. A woman was given to the family of the man she was to marry, so the family line could be continued by an heir. In line with Confucian-inspired values, individual wishes were ignored in the interests of the family.

⁸³ See footnote 2 in *AN*, vol. 4, 144; see also *AN*, vol. 3, 167.

⁸⁴ See PARRINDER, *Sex in the World's Religions*, 54.

family. Irresponsible behaviour causing neglect of one's family is strongly condemned while proper care of family is commended as one of the great blessings.⁸⁵

In Buddhism marriage is essentially a secular contract of partnership in which the partners assume obligations towards one another. Therefore, in Myanmar, for example, marriages do not normally take place during the three-month rainy period when more intense monastic and lay practices occur. In Thailand, a man is considered "raw" before he has been a monk, but "cooked" and mature enough to marry after a period of time spent as a monk, i.e. with the rough edges knocked off him.

In countries like China and Japan, where Buddhism exists alongside strong indigenous traditions such as Daoism⁸⁶ and Shintoism,⁸⁷ weddings are frequently within the purview of the indigenous tradition. An interesting feature of Buddhist practice evidenced in the early sources is that one or both of the partners could choose to enter the monastic *sangha* after marriage. Although a wife needed her husband's permission to do so, some women became nuns when their husbands decided to become monks or at the death of a husband as early tradition seemed to have discouraged remarriage.⁸⁸

As marriage is basically regarded as a secular social contract, the religious part of the ceremony is barely discernible. Because Buddhists generally regard entering into marriage as a nonreligious ritual, the involvement of monks is fairly minimal even in a predominantly Buddhist country like Thailand and then mostly in the preparatory stages

⁸⁵ See L. SILVA, "Buddhist-Christian Mixed Marriages: A Buddhist Viewpoint," in *Dialogue*, vol. 5, 2&3 (1978), 62.

⁸⁶ "Daoism or Taoism is one of the indigenous religions of China that played role in the signification of Buddhism after its transmission to China" (KEOWN, *A Dictionary of Buddhism*, 294).

⁸⁷ Shinto is the indigenous religion of Japan. See KEOWN, *A Dictionary of Buddhism*, 262.

⁸⁸ See RENARD, *Responses to 101 Questions on Buddhism*, 138.

of the rite. No official representative of Buddhism presides over or witnesses the contract at the core of the wedding ceremony; that is the function of all the invited guests.

The Buddha laid down no specific ceremonies for entering into marriage. But somehow, human hearts seem to need a wedding ritual to mark the change in status and to make the occasion as happy and splendid a ritual as possible. For some, a religious or at least spiritual element must be a part of the wedding ritual. It was customary for married couples and their families to invite monks to chant *sutras* after the civil or home ceremony, and this has developed into an actual marriage ceremony in many parts of the Buddhist world today.⁸⁹

In modern times there is often a civil ritual for the marriage ceremony and in some countries registration of the union is required by law. This civil requirement may be followed more strictly in cities than in small villages. In small villages a young couple living together is seen to be married in the eyes of the community.⁹⁰

2.2 – Marriage in Thai Society

In Thailand, there are two separate wedding ceremonies which take place. One is an official procedure of legal marriage registration according to the Thai Civil and Commercial Code. The other is the Buddhist religious ceremony with elements taken from the traditional Thai wedding ceremony also including several present-day rituals.

⁸⁹ See PRICKETT (ed.), *Living Faiths*, 51.

⁹⁰ See PARRINDER, *Sex in the World's Religions*, 54.

2.2.1 – Thai Civil Marriage

Thailand has a written constitution which is the basic law in the Kingdom and all amendments must be in accord with the basic principles established therein. Thai Interim Constitution B.E. 2560 (which corresponds to the year 2017 of the Gregorian calendar) concerns itself typically with the organization of the government, its activities, and powers.⁹¹ Thai Family Law is the branch of civil law that regulates the legal relationships of individuals who are connected to each other as family members, such as husbands, wives, parents, and children. Because Buddhist marriage is a social institution, a civil marriage must be registered according to the Thai Civil and Commercial Code for Buddhist people. Moreover, the Thai rules regarding the celebration of marriages apply to all marriages celebrated within the Kingdom of Thailand, independent of the nationality of the spouses.

Under the Thai legal system, the term “family” includes all those persons who qualify either as spouses, blood relatives, or are related to each other by adoption.⁹² The rights of the family as a natural community founded upon marriage are regulated under Book V of the Civil and Commercial Code,⁹³ Family Law, sections 1435–1447.⁹⁴ The various strands of family law include provisions concerning engagement, matrimonial

⁹¹ See A. STACY, *Elements of Thai Civil Law*, Leiden, Koninklijke Brill NV, 2016, 7. There is no official English translation of the Interim Constitution B.E. 2560 (2017). A recommended English translation can be found at <http://asean-law.senate.go.th/en/const-country-en.php?country=th>.

⁹² Adoption can be dissolved under the Civil and Commercial Code, and then the adopter can marry the adoptee (cf. sections 1598/31–1598/33).

⁹³ K. SANDHIKSHETRIN (comp. and trans.), *The Civil and Commercial Code: Book I–VI and Glossary: Thai–English Edition*, Bangkok, Nitibannakan, 2008. All references to the Civil and Commercial Code will be by the section number and numbers.

⁹⁴ See STACY, *Elements of Thai Civil Law*, 11–12.

law, matrimonial property law, divorce, parentage, guardianship, adoption, child support, and spousal maintenance.⁹⁵

Thai civil law recognizes only civil marriages that are registered according to the norm of law; no other marriage is recognized by this Code:

Section 1457. Marriage under this Code shall be effected only on registration being made.

After a couple register their marriage and the appropriate civil document is issued, the marriage takes effect immediately. No other wedding ceremony can establish a legal marriage. A religious ceremony or traditional Thai wedding can take place before or after the civil registration. As these wedding celebrations do not involve an official who is authorized by civil law, these ceremonies cannot substitute for civil registration according to the law.

The agreement of the couple is a decision or consent to enter into a marriage:

Section 1458. A marriage takes place only if the man and the woman agree to take each other as husband and wife, and such agreement be declared publicly before the Registrar in order to have it recorded by the Registrar.

Section 1458 of the Thai Civil and Commercial Code clearly states that first of all, a marriage can take place only between a man and a woman; hence there is no same sex “marriage” under this Code. Secondly, the marriage will take place only when both agree to take each other as husband and wife. Marriage is a legal union between a man and a woman that creates rights and duties between the spouses according to the provisions of the law. It means that in the act of agreement (consent) they agree to fulfill their mutual duties.

⁹⁵ See *ibid.*, 155.

The consent or decision to marry is, in accordance with Thai Civil and Commercial Code, the effective cause of marriage. The registration officer is only a legal witness representing the government; there is no requirement for any other witnesses apart from this public official. Hence there are only three persons necessary for a legally registered marriage: husband, wife, and registrar.

The couple give their consent through a voluntary act free of any conditions or time limitations. The public officer may refuse to accept the declaration of intention of the parties for a fixed term or for a conditional marriage. After the civil marriage has been officiated, any clause or limitation shall be deemed to be null and void and shall be given no force or effect.⁹⁶

Until the enactment of Book V of the Civil and Commercial Code on 1 October 1935, polygamy was legal and widely practiced; however, the institution of polygamy has been abolished under the present Code:

Section 1452. A marriage cannot take place if the man or woman is already the spouse of another person.

Monogamous marriage is the only legal marriage in the Kingdom of Thailand. No one can live in more than one registered marriage at a time.⁹⁷

In accordance with the Thai civil law, marriage can be terminated in one of three ways:

Section 1501. Marriage is terminated by death, divorce or being cancelled by the Court.

Marriage is dissolved by the death of a spouse. The definition of death is established elsewhere in Thai civil law; it is determined by a medical doctor in the prescribed manner upon examination of the deceased person. The moment of death is

⁹⁶ See *ibid.*, 157.

⁹⁷ See *ibid.*, 155.

legally important and the law holds that it corresponds to the moment of termination of brain activity or cessation of bodily impulses.⁹⁸

Marriage can also end by divorce. There is a legal procedure for divorce in the Thai Civil and Commercial Code outlined in sections 1514–1515:

Section 1514, §1. Divorce may be effected only by mutual consent or by judgment of the Court.

§2. Divorce effected by mutual consent must be made in writing and certified by the signatures of at least two witnesses.

Section 1515. Where marriage has been registered as provided by this Code, divorce by mutual consent is valid only if the registration thereof is effected by both the husband and wife.

Divorce can be accomplished by mutual consent of the spouses or by a court decree. If the divorce is jointly requested by the spouses, it does not require court approval but, if the marriage was registered, the divorce must be registered to be valid. Any district office in the country can accept and register a consensual divorce as in section 1514, §2, after which the district office will issue a divorce certificate.⁹⁹

In the case of divorce by mutual consent, the spouses must also decide on the exercise of parental responsibilities and child maintenance. In the absence of an agreement, the court is empowered to make an order with respect to the parental powers and responsibilities, as well as to the amount and duration of child maintenance, on the basis of all relevant circumstances.¹⁰⁰

⁹⁸ See *ibid.*, 26.

⁹⁹ See A. STACY, *General Principle of Thai Private Law*, Singapore, Springer, 2016, 230.

¹⁰⁰ See STACY, *Elements of Thai Civil Law*, 162.

Marriage may also be dissolved by the judgement of the court, if the couple cannot agree on divorce. A husband or wife can petition for judicial divorce only in certain cases, listed by the Code.¹⁰¹

In Thai civil law, marriage may also be declared null by the judgement of the court.¹⁰² The grounds for nullity of marriage are explicitly defined in section 1495 of the Code:

Section 1495. The marriage which is made against Section 1449, Section 1450, Section 1452 and Section 1458 shall be void.

There are four possible circumstances in which a marriage can be declared null. Firstly, if one of the spouses is insane or mentally incompetent.¹⁰³ Secondly, the marriage

¹⁰¹ Cf. Section 1516: “Grounds of action for divorce are as follows: 1. The husband has given maintenance to or honored such other woman as his wife, or the wife has committed adultery, the other spouse may enter a claim for divorce; 2. One spouse is guilty of misconduct, notwithstanding whether such misconduct is a criminal offence or not, if it causes the other: a) to be seriously ashamed; b) to be insulted or hated on account of continuance of being husband or wife of the spouse having committed the misconduct; or c) to sustain excessive injury or trouble where the condition, position and cohabitation as husband and wife are taken into consideration; the latter may enter a claim for divorce; 3. One spouse has caused serious harm or torture to the body or mind of the other, or has seriously insulted the other or his or her ascendants, the latter may enter a claim for divorce; 4. One spouse has deserted the other for more than one year, the latter may enter a claim for divorce; (4/1) one spouse had been sentenced by a final judgment of the Court and has been imprisoned for more than one year in the offence committed without any participation, consent or in the knowledge of the other, and the cohabitation as husband and wife will cause the other party sustain excessive injury or trouble, the latter may enter a claim for divorce; (4/2) The husband and wife voluntarily live separately because of being unable to cohabit peacefully for more than three years, or live separately for more than three years by the order of the Court, either spouse may enter a claim for divorce; 5. One spouse has been adjudged to have disappeared, or has left his or her domicile or residence for more than three years and being uncertain whether he or she is living or dead; 6. One spouse has failed to give proper maintenance and support to the other, or committed acts seriously adverse to the relationship of husband and wife to such an extent that the other has been in excessive trouble where the condition, position and cohabitation as husband and wife are taking into consideration, the latter may enter a claim for divorce; 7. One spouse has been an insane person for more than three years continuously and such insanity is hardly curable so that the continuance of marriage cannot be expected, the other may enter a claim for divorce; 8. One spouse has broken a bond of good behavior executed by him or her, the other spouse may enter a claim for divorce; 9. One spouse is suffering from a communicable and dangerous disease which is incurable and may cause injury to the other, the latter may file a claim for divorce; 10. One spouse has a physical disadvantage so as to be permanently unable to cohabit as husband and wife; the other may enter a claim for divorce.” See also STACY, *Elements of Thai Civil Law*, 163.

¹⁰² The concept of nullity of marriage in Thai civil law seems to correspond to the canonical understanding of marriage nullity: a declaration that the marriage as a legal reality [legally binding relationship of rights and obligations] never existed.

¹⁰³ See Section 1449: “A marriage cannot take place if either the man or the woman is an insane person or adjudged incompetent.”

is prohibited between a man and a woman who are within a certain degree of consanguinity or affinity.¹⁰⁴ Thirdly, a marriage can be declared null if at the time of registration one or both parties were bound by an existing marriage.¹⁰⁵ Finally, nullity will be granted in the absolute absence of consent of one or both of the parties.¹⁰⁶

The Thai civil law states that a marriage annulment can only be effected by a court judgement. An annulment action can be initiated by the spouses, parents, descendants, or, if there are none of these persons, by any interested person.¹⁰⁷

2.2.2 – Traditional Thai Wedding Ceremony

In Thailand, marriage is supported by public opinion and encouraged by social pressure. The simplest marriage ceremony is a family one in which the spirits of ancestors are informed that a couple will be man and wife, so that they should not be offended when the couple have intercourse.¹⁰⁸

It is a tradition and a moral duty for every young man to spend at least some time as a monk being instructed in Buddhism. A *khaw suk* or “ripe man” (in contrast to a *khaw dip* or “raw man”) who has received this training is considered worthy to be a husband. Usually the first enquiry made about a suitor is whether he had completed a period of time as a monk.¹⁰⁹

¹⁰⁴ See Section 1450: “A marriage cannot take place if the man and woman are blood relations in the direct ascendant or descendant line, or brother or sister of full or half blood. The said relationship shall be in accordance with blood relation without regard to its legitimacy.”

¹⁰⁵ See Section 1452.

¹⁰⁶ See Section 1458. See also STACY, *Elements of Thai Civil Law*, 162.

¹⁰⁷ See Section 1504, §1: “An interested person other than the parents or guardians who have given their consent to the marriage is entitled to apply for cancellation of the marriage on the ground of its voidability.” See also STACY, *Elements of Thai Civil Law*, 161.

¹⁰⁸ See HARVEY, *An Introduction to Buddhist Ethics*, 102.

¹⁰⁹ See PRICKETT (ed.), *Living Faiths*, 54.

On the eve of the wedding day, a chapter of monks, usually an even number and not less than six, is invited to recite certain texts from the Buddhist Scriptures and to sprinkle holy water for purification purposes. This ceremony normally takes place in the afternoon. The invited monks sit in a row by seniority in a suitable place provided for the occasion. At one end, on the right hand of the monks is an altar decorated with flowers, candles, and incense sticks, with an image of the Buddha in the centre. In front of it are placed one or two monks' alms bowls along with other smaller vessels filled with water. A silver or gold tray containing articles needed for the ceremony stands nearby. A big ball of cord made of unspun thread folded many times and formed into a long string and commonly called the *sai sin*¹¹⁰ is provided.¹¹¹

This sacred cord is unrolled and bound thrice in a counter-clockwise direction, usually around the pedestal of the Buddha image, thus leaving the ends free to go in opposite directions. One end goes out through a window or an opening and encircles the perimeter of the house and then returns to the pedestal of the Buddha image. The other end goes to the monks' alms bowls and small vessels; and here again the cord is bound thrice around them and then passed to the sitting monks after encircling the gold or silver tray and its contents. The monks hold it in both hands with reverence while reciting the sacred texts.

If the monks are to witness a ceremonial bath of purification after the recitation of the sacred texts, the sacred cord coming from the tray will be bound thrice around the heads of the bride and the bridegroom before it passes on to the monks. It is a popular

¹¹⁰ *Sai* means "line"; *sin* means a corruption of *sinchana* in Pāli and Sanskrit which means "to sprinkle." The *sai sin* is supposed to provide protection and good health to the person wearing it. The colour of the thread is usually white because it represents purity.

¹¹¹ See PRICKETT (ed.), *Living Faiths*, 54.

belief that the cord acts in a mystical way like an electric wire, carrying the sacred words as recited by the monks simultaneously to every place that the cord touches. Everything within the orbit of the sacred cord, including the water in the alms bowls and the small vessels, is thus consecrated while the mystic sacred texts convey a protective power and blessing.¹¹²

After the recitation of the sacred texts, the monks will roll up the part of the sacred cord which they hold, not disturbing the remainder and then place the half-rolled ball in front of the altar. The monk who heads the chapter will now begin to pour holy water from the alms bowl over the bride and bridegroom. The pouring of holy water over them is a preliminary procedure and a ritual purification before the actual wedding ceremony which will take place the next day.¹¹³

Thai wedding ceremonies, especially those conducted in Bangkok, will usually take place in the afternoon. The guests arrive at the appointed place for the marriage and are led into a waiting room provided for that purpose. When the appropriate moment arrives, the chief guest is invited to initiate the ceremony in the adjacent room. A few minutes later, when the chief guest comes out of the room, the others guests are invited to participate in the ceremony. The guests arrange themselves according to age and rank, with the men first. This is a tradition from bygone days when men were always in the forefront of battle while women stayed behind to look after the house. Indeed, Thais have a saying that men are an elephant's forelegs and women are the hind legs. Although a man and a woman are actually two, in marriage they are but one, like the front and hind

¹¹² See *ibid.*, 54–55.

¹¹³ See *ibid.*, 55. Instead of soaking the pair with holy water, the officiating monk now confines himself to sprinkling the holy water on them and on other persons present.

legs of the elephant. Each helps the other but each must be in his or her proper place. This tradition is now fading.¹¹⁴

The bride and the bridegroom squat near each other on a low bench with heads bowed and hands extended forward and folded in worship. As a matter of priority, the man must be on the right side of the woman. A wreath made of many unspun threads, a *mongkhon faet* is placed on the bowed head of each of the wedding pair; the two wreaths are joined together by a piece of thin thread.¹¹⁵

On the right of the wedding pair stands the master of ceremonies. As each guest comes in, he hands them a decorated conch shell filled with the holy water.¹¹⁶ The guest pours a little of the water in the folded hands of each of the wedding pair. Although the order is not important, it is usually the groom who receives the holy water first. The couple will make a little bow with their heads as a sign of a respectful thanks to the pourer. The water poured out runs down from their hands into a receiving vessel below. It is customary to say some short words of blessing, such as “May you be happy and live long” as the water is poured. Then the guest hands the conch shell back to the master of ceremonies. The latter will refill the conch shell with holy water from a vessel nearby if there is not enough already in the shell. In some cases leaves are also placed in the conch shell. These are either white and green, or red and green; they are called *bai ngun* (silver leaf) and *bai thong* (gold leaf). The placing of such leaves in the conch shell is a later practice and is not yet universal. This is probably related to imitative magic, the leaves symbolising wealth in gold and silver. When a guest has performed this ceremony, he or

¹¹⁴ See *ibid.*, 55–56.

¹¹⁵ *Mongkhon* means “auspicious” and *faet* means “twin.”

¹¹⁶ See footnote 2 in *AN*, vol. 4, 144; see also *AN*, vol. 3, 167.

she leaves the room. A young girl waits near the entrance and hands them a garland, a small bouquet, or a scented handkerchief as a memento. The guests may be asked to sign their name in a wedding memento book. The gift giving and book signing are a recent introduction through the influence of a modern culture.¹¹⁷

2.3 – The Comparison of the Buddhist Concept of Marriage with the Catholic Teaching

In accordance with Thai marriage tradition, a marriage contracted through a Thai wedding ceremony is regarded as a true marriage, regardless of its recognition by the legal system of the country. However, in order to have this recognition in Thailand, the couple must follow the requirements established in Thai civil law. Conversely, in order to enter into a marriage recognized as valid in the Church, Catholics have to follow the demands of canon law.

2.3.1 – The Nature and Purpose of Marriage

Under Thai civil law marriage is a form of legal cohabitation which is founded on the moral and legal equality of the spouses. Based on the mutual sentiments of love, respect, and understanding it is the basis of unity in the family. The marriage obligations are mutual: fidelity, morality material support, co-operation in the family's interests, and cohabitation.

¹¹⁷ See PRICKETT (ed.), *Living Faiths*, 56–57.

Within the marriage, men and women have the same rights and obligations, reinforced by the fact that they have a reciprocal duty to contribute towards the needs of the family:

Section 1461, §1. Husband and wife shall cohabit as husband and wife.

§2. Husband and wife shall maintain and support each other according to his or her ability and condition in life.

The conjugal community prescribed by the Civil and Commercial Code implies an obligation for a husband and wife to live together. This means that the spouses have a duty not only of physical cohabitation but also of joint responsibility in all the affairs of the family.¹¹⁸

In Buddhism, marriage is regarded as a secular contract or partnership.¹¹⁹ It is a secular affair which has evolved as a social institution through the ages to regulate the biological and emotional needs of mankind.¹²⁰ Marriage is a partnership in which the two partners each take up specific work in order to fulfill the aims of the partnership.

On the other hand, the 1983 Code states that marriage is a matrimonial covenant between a man and a woman. Marriage establishes a partnership or *consortium* for their whole life. As an institution of natural law, marriage has certain ends or finalities that are embedded in the nature of the institution itself independent of the will or intention of the spouses; by its nature, marriage is ordered to the good of the spouses and the procreation and education of offspring.¹²¹

Buddhist and Catholic understandings of marriage agree in that they both regard marriage as a relationship between a man and a woman, with mutual obligations to help

¹¹⁸ See STACY, *Elements of Thai Civil Law*, 158–159.

¹¹⁹ See HARVEY, *An Introduction to Buddhist Ethics*, 102.

¹²⁰ See *Digha-Nikaya*, iii, verse 88–89, in *DN*, 84–86; see also SILVA, “Buddhist-Christian Mixed Marriages,” 59.

¹²¹ Cf. c. 1055, §1.

and support each other. However, Buddhism regards marriage as a secular partnership and social institution, whereas Catholicism regards marriage between two baptized persons as a religious partnership, a sacramental one, and a matrimonial covenant; in accordance with Catholic doctrine, every valid marriage between two baptized persons is by this very fact a sacrament.¹²² However, a marriage between a Catholic and an unbaptized person is considered a natural marriage contract, as opposed to a sacramental one.

In accordance with Section 1458 of the Civil and Commercial Code of Thai law, a marriage takes place only if the man and the woman agree to take each other as husband and wife. This concept corresponds to Catholic understanding of the effective cause of marriage, namely that marriage comes about by consent legitimately manifested between two persons who are legally capable. Catholic doctrine stresses the fact that no human power beyond that of the couple is able to supply this consent which also seems to be implied by Thai marriage law. Further, Catholic teaching expounds that matrimonial consent is an act of the will by which a man and a woman mutually give and accept each other in an irrevocable covenant to establish marriage.¹²³

As to the legal standing of marital unions under the Thai legal system of the Civil and Commercial Code, it should be noted that a marriage between a Catholic and a Buddhist contracted in a Church ceremony is not considered as having legal effects. The couple must register their marriage at the Registrar Office before or after their religious ceremony in order to have their marriage legally recognized.

¹²² Cf. c. 1055, §2.

¹²³ Cf. c. 1057.

In contradistinction to the Catholic teaching on marriage, Buddhism recognises the existence of different types of marriage in different societies, and even within the same society. While it refrains from passing any value judgement on different forms of marital unions, it nevertheless deplores excessive indulgence.¹²⁴

Consequently, a monogamous marriage is the form of marriage which Buddhism holds in the highest esteem. It is said that a marriage free from the rivalry of co-wives is the result of a woman's meritorious deeds.¹²⁵ Nevertheless, Buddhist teaching does not conflict with other various types of marriage, or social arrangements. It always advocates moderation with regard to the enjoyment of sensual pleasures, though, and for this purpose monogamy is better than other types of marriage. Accordingly, Buddhism accepts all types of marriage present in social structures and cultures.¹²⁶ For instance, in the *Niti Nighanduva*¹²⁷ there are three types of marriage recognized: monogamous, polygamous, and polyandrous, with rules governing each type. However, one has to note that polygamy and polyandry are usually prompted by economic factors, i.e. preservation of family property. Thai civil law accepts only a monogamous marriage under the Civil and Commercial Code.¹²⁸ Hence Buddhists in Thailand can only get married in a monogamous union; other types of marriage would be considered invalid. This corresponds to the Catholic teaching on the unity of marriage as an essential property of

¹²⁴ See SILVA, "Buddhist-Christian Mixed Marriages," 59.

¹²⁵ See *Sanyutta-Nikaya*, text iv, verse 249, in F.L. WOODWARD (trans.), *The Book of the Kindred Sayings (Sanyutta-Nikaya)*, part 4, London, Routledge and Kegan Paul Ltd, 1972, 168.

¹²⁶ See SILVA, "Buddhist-Christian Mixed Marriages," 63.

¹²⁷ It is a small book dealing with the law of the Sinhalese during the Kandyan period (1480–1815).

¹²⁸ Cf. Section 1452.

marriage which means marriage is an exclusive relationship between one man and one woman.¹²⁹

The situation gets complicated, however, with regard to the question of termination of marriage. In principle, Buddhism has no objection to divorce. The practice among Buddhists today varies; because marriage between Buddhists is generally a civil matter, divorce is acceptable. The accepted practice among Buddhists in Thailand, supported by Buddhist principles and Thai civil law, allows divorce at any time.

This is a starkly different teaching from that of the intrinsic and extrinsic indissolubility of marriage professed by the Catholic Church. All true marriages, whether natural or sacramental, are indissoluble. This means that once a valid marriage exists, it cannot be dissolved by either the intervention of an external agent such as a state authority or by the fulfillment or non-fulfillment of certain conditions. Nevertheless, while all valid marriages are intrinsically indissoluble, not all of them have absolute extrinsic indissolubility.¹³⁰

In Catholic teaching, a ratified marriage is a valid marriage between two (validly) baptized persons. This marriage is called ratified and consummated if the parties have performed the conjugal act. A sacramental marriage that is consummated cannot be dissolved by any human power (c. 1141). However, non-sacramental marriages (i.e., marriages in which at least one party is unbaptized), ratified and non-consummated marriages can be dissolved under certain circumstances by the competent authority or, in some cases, by the law itself. The ministerial power which the Roman Pontiff possesses is used by him personally to dissolve non-consummated marriages between baptized

¹²⁹ Cf. c. 1056.

¹³⁰ See PIUS XII, allocution to the Roman Rota, October 3, 1941, no. 3, in AAS, 33 (1941), 424–425, in English translation in WOESTMAN (ed.), *Papal Allocutions to the Roman Rota 1939–2002*, 14.

parties or between a baptized party and an unbaptized party¹³¹ and also non-sacramental marriages in favor of the faith.¹³² Moreover, a marriage between two unbaptized persons can be dissolved in virtue of the Pauline Privilege which occurs when one party is baptized and the unbaptized party leaves.¹³³ Additionally, the dissolution of a marriage can take place in accordance with the provisions of c. 1148 which refers to polygamous marriages, and of c. 1149 which refers to non-sacramental (or even ratified but non-consummated) marriages in which the couples have been separated due to persecution or captivity.

Any pastoral approach dealing with mixed marriages in Thailand must take into account that very often when a Catholic marries a Buddhist, each enters the marriage with a different understanding of the permanence of the relationship. The Buddhist party often believes the marriage is dissoluble by the will of the parties while the Catholic party believes marriage is for life.

On one hand, Thai civil law recognizes a civil marriage has taken place only if the man and woman agree to take each other as husband and wife, and such agreement is declared publicly before a registration officer. There is no witness required apart from the

¹³¹ This concerns marriages in which at least one party is Catholic that have been validly celebrated in the Catholic Church, or in another church or place with a dispensation from the canonical form, which for some reason have not been consummated. Canon 1142 reads: “A non-consummated marriage between baptized persons or between a baptized party and an unbaptized party can be dissolved by the Roman Pontiff for a just reason, at the request of both parties or of either party, even if the other is unwilling.” For the procedure of dissolution, see cc. 1697–1706.

¹³² CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Normæ de conficiendo processu pro solutione vinculi matrimonialis in favorem fidei* Potestas Ecclesiæ, April 30, 2001, E civitate Vaticana, 2001, the English translation with a commentary in KOWAL and WOESTMAN, *Special Marriage Cases and Procedures*, 92–128 and in Appendix I, 209–218 (Preface).

¹³³ Canon 1143, §1 reads: “In virtue of the Pauline Privilege, a marriage entered into by two unbaptized persons is dissolved in favor of the faith of the party who received baptism, by the very fact that a new marriage is contracted by that same party, provided the unbaptized party departs.” Paragraph 2 of the same canon explains the canonical meaning of “departure:” “The non-baptized party is considered to depart if he or she does not wish to cohabit with the baptized party or to cohabit peacefully without an affront to the Creator unless the baptized party, after baptism was received, has given the other a just cause for departing.”

registration officer. Buddhist marriage does not require any separate or specific legal requirements for a valid marriage celebration; it simply follows the civil and customary requirements. On the other hand, Catholics are bound by canonical form for the valid celebration of marriage.

2.3.2 – Particular Challenges for Catholics Entering into Marriages with Buddhists in Thailand

The 1983 Code requires that, for validity, any marriage involving at least one Catholic¹³⁴ must be celebrated according to canonical form in ordinary circumstances, namely it is to be contracted before the local ordinary, pastor, or another priest or a deacon delegated by them, and in the presence of two witnesses.¹³⁵ In the case of a Catholic marrying a Buddhist, there is a diriment impediment of disparity of worship, and such a marriage requires a dispensation for validity.¹³⁶ The local ordinary may grant a dispensation for this marriage when the conditions stipulated in c. 1086, §2 are fulfilled.¹³⁷

Experience has shown that when two persons of different religions, and consequently, different beliefs about marriage come together, there is a potential for

¹³⁴ See c. 1117 which stipulates that canonical form “[...] must be observed if at least one of the parties contracting the marriage was baptized in the Catholic Church or received into it, without prejudice to the provisions of can. 1127, §2.” See also HUELS, *The Pastoral Companion*, 282.

¹³⁵ Canon 1108, §1: “Only those marriages are valid which are contracted before the local ordinary, pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses according to the rules expressed in the following canons and without prejudice to the exception mentioned in cc. 144, 1112, §1, 1116, and 1127, §§1–2.”

¹³⁶ See c. 1086, §1: “A marriage between two persons, one of whom has been baptized in the Catholic Church or received into it, and the other of whom is not baptized, is invalid.” See also HUELS, *The Pastoral Companion*, 220.

¹³⁷ Cf. c. 1086, §2: “A person is not to be dispensed from this impediment unless the conditions mention in cc. 1125 and 1126 have been fulfilled.”

problems. One source of difficulties is the different expectations regarding the rights and duties in the marriage relationship.

The crux of the matter is that marriage, in the Church's understanding, is a partnership of the whole life, a true union of body, mind, heart and spirit, between a man and a woman. Generally, most religions require an in-depth allegiance of the person to their respective vision of the world, a vision which will shape the person's attitudes, values, and behaviour patterns. As such, it is obvious that two individuals belonging to two significantly different religions will find these differences to be significant obstacles or impediments to full marital unity and hence to a happy and successful marriage. The gravity of those obstacles will depend on how deeply the two partners adhere to their respective religious perspectives. Therefore, it must be acknowledged that a difference in religion can prejudice the kind of deep interpersonal union which the Church holds as required in marriage.

Another important factor is that religions claim to be a path to liberation or salvation and generally exclusively so. It is literally a matter of life and death for the individual, the most serious question of their life. If the person believes that his or her religion is the only path to liberation or salvation, that person will feel obliged to follow it and will also feel compelled to offer it to others, particularly those close to him or her, such as his or her spouse and their children. With these conflicts in mind, the basic rights of the parties must be acknowledged and preserved in the course of the marital relationship. Each spouse's right to enjoy liberty of conscience has to be respected. This means that a person has the right to adhere to the religion that he or she thinks is right. Finally, it is a natural right for everyone to marry the person of his or her own choice

irrespective of any distinction of caste, creed, race, etc., provided that it is not contrary to divine and ecclesiastical law.¹³⁸

The problems inherent in a mixed marriage should be taken into account by the couple before marriage. First, in a mixed marriage the couple is not dealing with a purely religious question; there also exist personal, social, emotional, psychological, and pastoral aspects, all of which must be taken seriously. The couple must be informed of possible difficulties arising from their deeply held theological beliefs and religious customs. For instance, they have to understand each other's religious rituals.

Additionally, "arranged marriages" should receive increased scrutiny. The pattern for the future will be what is called a "love marriage" where the parents have a less active role in choosing their child's life partner. Given the pluralistic nature of Thai society and the ways in which people are thrown together in daily life, it is reasonable to assume that mixed marriage will increase in the future. Most of the population in Thailand is Buddhist; Catholics are a minority with less than 1% of the population. As a result many Catholics marry Buddhists. This is a matter of fact; however, such marriages expose Thai Catholics to the challenges described above, that is, how to live with a spouse who holds different religious belief and practices. It is important, therefore, that Churches and other religions work to avoid the undue hardship, alienation, and guilty feelings that can characterize mixed marriages.

Finally, understanding the changing role of religious authority in human life is an important aspect of the question of mixed marriages. Many who treasure religious beliefs and values reject the authority of the institutional structures of religions as an

¹³⁸ See M. FERNANDO, "The Catholic Church and 'Mixed Marriages': A Brief Historical Sketch," in *Dialogue*, vol. 5, nos. 2-3 (1978), 75-76.

anachronism. Religion has a directive, persuasive, and corrective influence over the lives of its followers, and even the most committed adherents of religions resent authoritarianism in religious discipline. This can be particularly true when dealing with mixed marriages where the person involved, because of a sense of guilt, is looking for help and not criticism. The increase of mixed marriages is an indicator of growing acceptance of these relationships. Despite the dogmatism and intolerance sometimes seen in “official” religion, people of different faiths have been engaged in “unofficial” dialogue for decades.

Buddhism places all responsibility for man’s place in the world and his destiny on the person’s own shoulders, whereas Christianity believes in the grace of God. These basic differences can give rise to different attitudes and values which may cause friction in daily life. In particular, the Catholic Church does not recognize the validity of civil marriages entered into by Catholics with no regard for the Church’s discipline. A dispensation from the impediment of disparity of worship will be granted only under the condition that the Catholic party declares that he or she is prepared to avoid lapsing from the Catholic faith and also promises to do all in his or her own power to see that all children who will be born of this marriage are baptized and brought up in the Catholic faith.¹³⁹

There are also many challenges faced by children in mixed marriages in Thailand. For example, one of the greatest obligations in the life of a Thai man is his ordination as a monk. It is deeply entrenched both in Thai culture and Buddhist beliefs that all men should become monks at some point in their lives, usually before marriage, in order that

¹³⁹ See c. 1125, 1^o, see also SILVA, “Buddhist-Christian Mixed Marriages,” 63–64; J.P. BEAL, “Mixed Marriages (cc. 1124–1129),” in *Comm2*, 1345–1346.

they can experience the discipline and tranquility of the monastic life. For Thai people, ordination as a monk provides education, preparation for adulthood, and merit.¹⁴⁰ According to this practice, a boy will be asked to be ordained as a Buddhist monk for the sake of his parents or grandparents.

Moreover, children born in mixed marriages in Thailand may very well be raised and educated in Buddhist religious practice because they live apart from the Catholic community. There are many public schools, which have a Buddhist environment due to the population demographics and their free tuition; Catholic schools, which are private, require tuition payments for attendance. Therefore, many Catholic children study and spend their lives in public schools, and consequently, in a Buddhist environment.

Another particular challenge is created by the fact that Buddhism has its own rituals. One example is the offering ceremonies; alms rounds are probably the simplest and most frequent activities of nuns, novices, and monks. These special events, called *Tak Bat*, can take place at a private residence or at a business place. *Tak Bat* is not a special ceremony or celebration but is a usual daily practice still performed today, even in the heart of Bangkok. Every morning, most monks leave their monasteries at dawn and walk through their local villages or city neighborhoods. Nuns, novices, and monks can also receive alms at their monasteries or while attending special events, for instance, birthday parties, wedding ceremonies, funeral services, or moving to a new house, etc. where they receive alms from lay people. The presence of Buddhist monks and their chant at those ceremonies ensure that these events will be successful.¹⁴¹ As *Tak Bat* plays

¹⁴⁰ See THE PUBLIC RELATION DEPARTMENT, *Buddhism in Thai Life*, 92.

¹⁴¹ See J.T. MCDANIEL, *The Lovelorn Ghost & the Magic Monk: Practicing Buddhism in Modern Thailand*, New York, Columbia University Press, 2011, 135–136; see also THE PUBLIC RELATION DEPARTMENT, *Buddhism in Thai Life*, 78.

a very important role in Thai Buddhist daily life, a Catholic who marries a Buddhist has a high probability of being asked to participate in *Tak Bat* either at the wedding ceremony or other special occasions. It is quite normal for a Buddhist to ask other family members to join them in this ritual.

Finally, Buddhist teachings on marriage prefers monogamy, however polygamy and polyandry are still tolerated. This is a direct contradiction to Catholic teaching on unity in marriage. Thai civil law supports the Catholic understanding of unity in marriage, since monogamy is the only legal marriage in Thailand. Nevertheless, it is possible that Thai men could illegally have many wives.

Buddhism does not regard marriage as indissoluble or permanent; Buddhists can legally divorce and enter a new marriage. Not infrequently, Catholic parties may be left by the Buddhist party who initiated their divorce.

Conclusion

Marriage is a partnership of two individuals and this partnership is enriched and enhanced when it allows the couple to grow. Marriage as a human institution is universal though its forms are many and varied. Indeed, marriage serves human needs which are fundamental and are common to all societies irrespective of their economic, socio-cultural, racial, or religious configurations.

An examination of Buddhist views on marriage and the particular situation of mixed marriages highlight the different practices found in Buddhism and Catholicism. The Catholic Church in Thailand must therefore offer comprehensive and effective pastoral care for mixed marriages between a Buddhist and a Catholic beginning long

before the wedding and continuing throughout their marriage. Canonical discipline (c. 1126) provides that conferences of bishops are to establish particular norms to address the reality of mixed marriage. Because Thai Catholics are living in a Buddhist environment, canonical norms are needed to prepare Catholics to live in a mixed marriage. To prepare the ground for a meaningful discussion of canonical-pastoral issues surrounding mixed marriages, the next chapter will focus on the legal requirements for marriage, ecclesiastical and secular, and especially, on the impediment of disparity of worship.

CHAPTER THREE
THE MARRIAGE IMPEDIMENT OF DISPARITY OF WORSHIP
IN THE CONTEXT OF CATHOLIC-BUDDHIST MARRIAGES

Introduction

As the present study has already mentioned, the majority of Thailand's population is Buddhist. This results in far fewer sacramental marriages than those which require a dispensation from the impediment of disparity of worship.¹ Catholics planning to marry a Buddhist should, therefore, be informed that their marriage will require a dispensation from an impediment of disparity of worship. As well, there may exist other impediments which would affect the validity of the prospective marriage.

The purpose of the present chapter is not a comprehensive presentation of the canonical doctrine on marriage requirements as such,² but rather a search for essential elements of pertinent canonical norms in view of confronting them with equivalent or at least similar notions in Thai civil law. For it can be expected that the comprehension of ecclesiastical marriage requirements by a Buddhist spouse will be influenced by secular notions embedded in the legal culture of the place.

In view of the social composition of the population, the impediment of disparity of worship which exists when a Catholic desires to marry a non-baptized person will become the central focus of the following reflection. However, this perspective will also

¹ Cf. *supra*, 1.

² When the project of the present dissertation was presented for appraisal to the so-called *coetus parvus* of professors of the Faculty of Canon Law, it was indicated that the thesis cannot be just another elaboration on the topic of mixed marriages, already extensively treated in canonical literature, but an original contribution firmly rooted in the unique milieu of Thailand. This remark can also be referred to the necessity of considering particular canonical requirements for marriage in a rather summary way, while always attempting to bring forward the possible implications of canonical matters for the concrete reality of mixed marriages between Catholic and Buddhist parties.

serve a more general purpose, namely providing for an analysis of other related canonical issues, that is all other diriment impediments, lawful exchange of marriage consent and canonical form of marriage. Again, the discussion will take into account principally those aspects which are especially important for Catholic-Buddhist marriages in Thailand.

3.1 – Diriment Impediments to Marriage in the Thai Social Context

An impediment is a circumstance affecting a person that renders that person's marriage either illicit or invalid. Marriage impediments found in legal systems are intended to protect the welfare of the spouses and of the community at large.

The 1983 Code contains a number of canons concerning marriage impediments in general and in particular. On the other hand, Thai civil law places certain restrictive conditions on the couple parallel to the impediments found in the 1983 Code. Consequently, in Thailand a couple may marry in a religious ceremony with no civil recognition of such a union, nevertheless Thai Catholics who desire to get married in the Catholic Church as well as in accordance with the civil requirements in Thai society must take into account the legal conditions found in both contexts.

3.1.1 – Marriage Impediments in Ecclesiastical Law and Their Equivalent in Thai Civil Law

In the 1983 Code there are 10 canons pertaining to general principles on impediments to marriage and their dispensation. Canons 1073–1076 present the notion of impediment in general, followed by the canon on prohibition of a particular marriage

(c. 1077), specific norms on dispensation from the impediments in various circumstances (cc. 1078–1080), and the canons on recording of dispensations (cc. 1081–1082).³

When compared with the Thai Civil and Commercial Code,⁴ one cannot find any direct equivalent to the general concept of marriage impediments. However, some civil conditions prohibit a person to legally enter a marriage that result in an indirect equivalent outcome to that of a marriage impediment in canon law.

3.1.1.1 – Diriment Impediments

An impediment is called “diriment impediment” (*dirimere*) when it results in the invalidity of marriage:⁵

Canon 1073. A diriment impediment renders a person unqualified to contract marriage validly.⁶

Canon 1073 begins by emphasizing that an impediment makes a person legally disqualified (*inhabilis*) from entering into a marriage. A diriment marriage impediment is a circumstance or condition which prevents a person from marrying validly. It is a circumstance directly related to a person and may arise from the relationship of that person to another or it may be a result of his or her particular condition.⁷ On the other hand, the category of impeding (prohibitive) impediments was eliminated from the 1983 Code; an impeding impediment resulted only in the unlawfulness of the marriage.

³ See J.P. BEAL, “Diriment Impediments in General (cc. 1073–1082),” in *CLSA Comm2*, 1272.

⁴ See Book V, section 1457, in K. SANDHIKSHETRIN (comp. and trans.), *The Civil and Commercial Code: Book I–VI and Glossary: Thai–English Edition*, Bangkok, Nitibannakan, 2008.

⁵ See BEAL, “Diriment Impediments in General (cc. 1073–1082),” 1272.

⁶ Canon 1073: “Impedimentum dirimens personam inhabilem reddit ad matrimonium valide contrahendum.”

⁷ See DOYLE, “Marriage (cc. 1055–1165),” 757.

Impediments derive from divine, natural or ecclesiastical law. Divine law impediments bind everyone and cannot be dispensed, whereas ecclesiastical impediments bind directly only Catholics (cf. c. 11); however, they may bind indirectly also non-Catholics entering into a marriage with a Catholic party (cf. c. 1059). In the 1983 Code divine law impediments are the impediment of prior bond, of impotence, and of consanguinity in the first degree of the direct line. Consanguinity in the other degrees of the direct line or the second degree of the collateral line may or may not be divine law impediments; however, even if this restriction were not of divine law, it is not, nonetheless, dispensed. For Christians who are not bound by any proper marriage law of the Church or ecclesial community to which they belong⁸ and for non-Christians, canon law recognizes the binding force of civil law. However, an impediment of civil law which is contrary to the divine law is not recognized as binding by canon law.⁹

Canonists distinguish impediments as absolute or relative. An absolute impediment affects the person always and it prohibits any marriage. These are the impediments of age, prior bond of marriage, holy orders, and a public perpetual vow of chastity in a religious institute. A relative impediment only invalidates a marriage with a particular person. Relative impediments include: disparity of worship, abduction, crime, consanguinity, affinity, public propriety, and legal relationship by adoption. The impediment of impotence may be either absolute or relative.¹⁰

As stated above, in Thai civil law there are no equivalents to impediments that appear in the 1983 Code. However, in Thai civil law there are stipulations bearing on

⁸ Cf. *supra*, 50–51.

⁹ See HUELS, *The Pastoral Companion*, 227–228.

¹⁰ See *ibid.*, 228.

legal qualifications of persons entering into a marriage that affect the validity of the union.¹¹

The ecclesiastical discipline introduces a distinction between public and occult impediments. Accordingly, an impediment is considered public when its existence can be proven in the external forum, otherwise is considered occult:¹²

Canon 1074. An impediment which can be proven in the external forum is considered to be public; otherwise it is occult.¹³

The distinction in c. 1074 is taken from *CIC/17*, c. 1037.¹⁴ Each impediment belongs, therefore, to one of these two groups.¹⁵

There are three possible ways that the impediment can be proven in the external forum: by an authentic document, by at least two witnesses giving agreeable testimony, or by testimony of an official concerning matters relating to his office.¹⁶

When an impediment cannot be proven in the external forum, it is considered occult. It is important that circumstances in these cases are not a matter of public record and are not well known. For example, a husband or a wife may not be aware of a blood relationship with his or her own spouse. In this case the impediment is considered as occult.¹⁷ If the impediment becomes well known later, then it is considered public.

An impediment that could be known in the external forum, i.e., the information exists, but is not known or is not likely to become known is considered occult even

¹¹ See STACY, *General Principle of Thai Private Law*, 224.

¹² See DOYLE, "Marriage (cc. 1055–1165)," 758.

¹³ Canon 1074: "Publicum censetur impedimentum, quod probari in foro externo potest; secus est occultum."

¹⁴ Cf. *CIC/17*, c. 1037: "That impediment is considered public that can be proven in external forum; otherwise it is occult."

¹⁵ See J. FORNÉS, "Diriment Impediments in General," in *Exegetical Comm*, 1152.

¹⁶ See HUELS, *The Pastoral Companion*, 229.

¹⁷ See DOYLE, "Marriage (cc. 1055–1165)," 758.

though by its nature it is public. A local ordinary, in granting of the dispensation, may accept this nuanced distinction of public and occult impediments.¹⁸

The impediments are established by either the simple declaration of impediments that derive from divine law or the lawful constitution of other impediments that are of ecclesiastical law.¹⁹ The supreme legislator determines clearly the authority to establish and authentically interpret marriage impediments: solely the supreme authority of the Church may declare authoritatively when divine law establishes impediments to marriage and may establish additional impediments:

Canon 1075, §1. It is only for the supreme authority of the Church to declare authentically when divine law prohibits or nullifies marriage.

§2. Only the supreme authority has the right to establish other impediments for the baptized.²⁰

Canonical discipline on matrimonial impediments is established by the supreme authority of the Church, the Roman Pontiff, who may act alone as the supreme legislator or together with college of bishops in ecumenical councils.²¹ However, the interpretations issued by the dicasteries of the Roman Curia can be made in virtue of delegated authority from the Holy Father.²²

When a divine law impediment is determined as such by the Holy See, it affects everyone, baptized or not. However, ecclesiastical law impediments bind only baptized Catholics unless it is stated otherwise.

¹⁸ See HUELS, *The Pastoral Companion*, 229.

¹⁹ See FORNÉS, “Diriment Impediments in General,” 1154.

²⁰ Canon 1075, §1: “Supremae tantum Ecclesiae auctoritatis est authentice declarare quandonam ius divinum matrimonium prohibeat vel dirimat. §2. Uni quoque supremae auctoritati ius est alia impedimenta pro baptizatis constituere.”

²¹ See BEAL, “Diriment Impediments in General (cc. 1073–1082),” 1274; see also *CCEO*, c. 792: “Diriment impediments are not to be established by the particular law of a Church *sui iuris* except for a most grave cause, after having consulted with eparchial bishops of other Churches *sui iuris* who have an interest, and after consultation with the Apostolic See; however, no lower authority can establish new diriment impediments.”

²² See DOYLE, “Marriage (cc. 1055–1165),” 758.

The Thai Interim Constitution B.E. 2557 (A.D. 2014) is the basic law of the Kingdom. The National Council for Peace and Order introduces a draft amendment to the National Legislative Assembly for approval. When the draft of constitutional amendment has been approved by the National Legislative Assembly, the prime minister has to submit it to the king within fifteen days of its approval.²³ In Thai civil law, therefore, marriage restrictions can be introduced and approved by this procedure but in fact marriage restrictions are not a matter for constitutional law in Thailand.

The Church law to a great extent was born out of customs introduced by various communities, and only then formally recognized by legislators as a norm of law. The Code, therefore, addresses the issue of impediments possibly introduced through custom, that is, a specific practice or way of acting assumed as obligatory by a community of the faithful. Historically, impediments have usually been introduced by custom. A notable example is the impediment of disparity of worship, binding on the faithful in the Latin Church by virtue of universal custom before it was incorporated into the 1917 Code.²⁴ However, the 1983 Code states that customary impediments can no longer be added or be used to interpret laws:²⁵

Canon 1076. A custom which introduces a new impediment or is contrary to existing impediments is reprobated.²⁶

When considering customs, c. 24 states that any custom contrary to divine law cannot obtain the force of law. Further, according to paragraph two of c. 24, any custom

²³ See STACY, *Elements of Thai Civil Law*, 7–8.

²⁴ See BEAL, “Diriment Impediments in General (cc. 1073–1082),” 1274.

²⁵ See DOYLE, “Marriage (cc. 1055–1165),” 759.

²⁶ Canon 1076: “Consuetudo novum impedimentum inducens aut impedimentis existentibus contraria reprobatur.”

contrary to or beyond canon law must be reasonable; any custom expressly reprobated in the law is not reasonable.²⁷

The Civil and Commercial Code provides several rules of interpretation: literal interpretation based on the ordinary meaning of the words, systematic interpretation, where lack of clarity in the text leads to comparison to other norms in the legal system, and interpretation by analogy, by looking at the closest applicable situation.²⁸ Finally,

Section 4. The law must be applied in all cases which come within the letter or the spirit of any of its provisions. Where no provision is applicable, the case shall be decided according to the local custom. If there is no such custom, the case shall be decided by analogy to the provision most nearly applicable, and, in default of such provision, by the general principles law.

While only the supreme authority of the Church can establish impediments through a legislative act, local ordinaries, for a grave cause, can prohibit the celebration of a marriage in a particular case:²⁹

Canon 1077, §1. In a special case, the local ordinary can prohibit marriage for his own subjects residing anywhere and for all actually present in his own territory but only for a time, for a grave cause, and for as long as the cause continues.

§2. Only the supreme authority of the Church can add a nullifying clause to a prohibition.³⁰

The 1983 Code stating that the local ordinary may prohibit a marriage does not exclude a situation of this authority being delegated to others. In all cases, the local ordinary may issue a personal prohibition only for a particular and grave cause and for as long as this particular cause exists.³¹

The local ordinary's power to prohibit a marriage extends to his own subjects anywhere, even if the proposed marriage will take place in another diocese. He may also

²⁷ Cf. c. 24, §2. See FORNÉS, "Diriment Impediments in General," 1156.

²⁸ See STACY, *General Principle of Thai Private Law*, 9.

²⁹ See BEAL, "Diriment Impediments in General (cc. 1073–1082)," 1275.

³⁰ Canon 1077, §1: Ordinarius loci propriis subditis ubique commorantibus et omnibus in proprio territorio actu degentibus vetare potest matrimonium in casu peculiari, sed ad tempus tantum, gravi de causa eaque perdurante. §2. Vetito clausulam dirimentem una suprema Ecclesiae auctoritas addere potest."

³¹ See BEAL, "Diriment Impediments in General (cc. 1073–1082)," 1275.

prohibit the marriage of persons in his diocese even if they are subjects of another diocesan bishop.³² “A prohibition issued by the local ordinary or his delegate is never binding under the pain of invalidity. Only the Holy See can add an invalidating clause to a prohibition.”³³

There is no equivalent to the authority of local ordinary in Thai civil law in the matter of marriage. A judgment of the lower Court effects the validating of marriage and prohibiting marriage according to Thai civil law.³⁴

3.1.1.2 – Dispensation from Diriment Impediments

A dispensation, i.e. a relaxation of the obligation of a merely ecclesiastical law in a particular case, is an act of administrative power issued by a person who has executive power or by those who are given the power of dispensing by the law itself or by lawful delegation.³⁵ The special legislation concerning dispensation from matrimonial impediments is understood in the context of general norms for dispensation.³⁶ However, there is no mention of any action equivalent to a dispensation, in the sense of relaxation of a norm of law by a civil authority in a particular case, anywhere in Thai civil law concerned with marriage.

With regard to dispensation from marriage impediments, the law stipulates the following:

³² See DOYLE, “Marriage (cc. 1055–1165),” 760.

³³ Ibid.

³⁴ Cf. section 1496–1497/1 of Civil and Commercial Code.

³⁵ See c. 85: “A dispensation, or the relaxation of a merely ecclesiastical law in a particular case, can be granted by those who possess executive power within the limits of their competence, as well as by those who have the power to dispense explicitly or implicitly either by the law itself or by legitimate delegation.”; see also J. E. RISK, “Dispensation (cc. 85–93),” in *CLSA Comm1*, 64.

³⁶ See DOYLE, “Marriage (cc. 1055–1165),” 760.

Canon 1078, §1. The local ordinary can dispense his own subjects residing anywhere and all actually present in his own territory from all impediments of ecclesiastical law except those whose dispensation is reserved to the Apostolic See.

§2. Impediments whose dispensation is reserved to Apostolic See are:

1° the impediment arising from sacred orders or from a public perpetual vow of chastity in a religious institute of pontifical right.

2° the impediment of crime mentioned in c. 1090.

§3. A dispensation is never given from the impediment of consanguinity in the direct line or in the second degree of the collateral line.³⁷

Consequently, the local ordinary cannot dispense from the impediments of prior bond, impotence, consanguinity in the direct line and the second degree of the collateral line, and from impediments reserved to the Apostolic See. The power to dispense from the impediment belongs to the ordinary of the place where the marriage is celebrated for those actually present on his territory and the ordinary of the place where the party has domicile or quasi-domicile.³⁸

Paragraph two of c. 1078 stipulates that clerics in any grade of sacred orders may not marry without a dispensation from the Pope.³⁹ The impediment arising from a public perpetual vow of chastity in a religious institute,⁴⁰ in ordinary circumstances, is not dispensed. It can be dispensed in the circumstances according to c. 1079. However, the obligation of the vow ceases with an indult of departure for a religious in an institute of pontifical right granted by the Apostolic See or for a religious in an institute of diocesan right granted by the diocesan bishop.

³⁷ Canon 1078, §1: “Ordinarius loci proprios subditos ubique commorantes et omnes in proprio territorio actu degentes ab omnibus impedimentis iuris ecclesiastici dispensare potest, exceptis iis, quorum dispensatio Sedi Apostolicae reservatur.” §2: “Impedimenta quorum dispensatio Sedi Apostolicae reservatur sunt: 1° impedimentum ortum ex sacris ordinibus aut ex voto publico perpetuo castitatis in instituto religioso iuris pontificii; 2° impedimentum criminis de quo in can. 1090.” §3: “Numquam datur dispensatio ab impedimento consanguinitatis in linea recta aut in secundo gradu lineae collateralis.”

³⁸ See HUELS, *The Pastoral Companion*, 230.

³⁹ Cf. c. 1087: “Those in sacred orders invalidly attempt marriage.”

⁴⁰ Cf. c. 1088: “Those bound by a public perpetual vow of chastity in a religious institute invalidly attempt marriage.”

The dispensation from the impediment of crime including both aspects, murder of a spouse and conspiracy to murder, is reserved to the Apostolic See when the impediment is public.⁴¹ When it is occult, then the competent authority to grant this dispensation is the Apostolic Penitentiary.⁴²

Ecclesiastical law anticipates specific situations in which the scope of the authority of local officials is increased or the list of authorities competent to grant the dispensation is widened. One example of this occurs with the “urgent danger of death” (*urgente mortis periculo*) situation:

Canon 1079, §1. In urgent danger of death, the local ordinary can dispense his own subjects residing anywhere and all actually present in his territory both from the form to be observed in the celebration of marriage and from each and every impediment of ecclesiastical law, whether public or occult, except the impediment arising from the sacred order of presbyterate.

§2. In the same circumstances mentioned in §1, but only for cases in which the local ordinary cannot be reached, the pastor, the properly delegated sacred minister, and the priest and deacon who assists at marriage according to the norm of can. 1116, §2 possess the same power of dispensing.

§3. In danger of death a confessor possesses the power of dispensing from occult impediments for the internal forum, whether within or outside the act of sacramental confession.

§4. In the case mentioned in §2, the local ordinary is not considered accessible if he can be reached only through telegraph or telephone.⁴³

In the case of probable death of either party or if one is actually dying, the local ordinary may dispense his own subjects as well as any person living in his territory.⁴⁴ In this case, the local ordinary may dispense from all marriage impediments except for the

⁴¹ See BEAL, “Diriment Impediments in General (cc. 1073–1082),” 1292.

⁴² See HUELS, *The Pastoral Companion*, 231.

⁴³ Canon 1079, §1: “Urgente mortis periculo, loci Ordinarius potest tum super forma in matrimonii celebratione servanda, tum super omnibus et singulis impedimentis iuris ecclesiastici sive publicis sive occultis, dispensare proprios subditos ubique commorantes et omnes in proprio territorio actu degentes, excepto impedimento orto ex sacro ordine presbyteratus.” §2: “In eisdem rerum adiunctis, de quibus in §1, sed solum pro casibus in quibus ne loci quidem Ordinarius adiri possit, eadem dispensandi potestate pollet tum parochus, tum minister sacer rite delegatus, tum sacerdos vel diaconus qui matrimonio, ad normam can. 1116, §2, assistit.” §3: “In periculo mortis confessarius gaudet potestate dispensandi ab impedimentis occultis pro foro interno sive intra sive extra actum sacramentalis confessionis.” §4: “In casu de quo in §2, loci Ordinarius censetur adiri non posse, si tantum per telegraphum vel telephorum id fieri possit.”

⁴⁴ See DOYLE, “Marriage (cc. 1055–1165),” 761–762; see also J. GONZÁLEZ, “Marriage Between Cousins,” in *Boletín Eclesiástico de Filipinas*, 76 (2000), 274–275.

one arising from the sacred order of priesthood. Such dispensation requires a just cause; it would always be the spiritual good of the parties.⁴⁵

The law states that if the local ordinary cannot be reached, a pastor or another priest or deacon delegated to perform a marriage may also dispense. If none of the above are available, a non-delegated priest or deacon may dispense (as in c. 1116, §2 regarding extraordinary form of marriage).⁴⁶ The law explains that the local ordinary is considered inaccessible if he can be reached only by telegraph or telephone.⁴⁷

In danger of death, the confessor may dispense from occult impediments in the internal forum. A confessor is considered to be any priest with the faculty to hear confessions or the priest actually hearing the confession of the person in question. The confessor may use this power even outside of the sacramental confession.⁴⁸

As there is no mechanism in Thai civil law to relax of a norm of law in a particular case regarding marriage, even the extreme circumstances of danger of death have no bearing on the application of civil law.

The pastoral attitude of ecclesiastical law appears prominently when the person finds himself/herself in urgent situations other than danger of death. For instance, the existence of an impediment may come to light just before the wedding, either because it was fraudulently concealed beforehand, or because its existence was ignored. Canon 1080 provides, therefore, for the following:

⁴⁵ See BEAL, “Diriment Impediments in General (cc. 1073–1082),” 1278–1279; see also T.J. GREEN, “Dispensation from Canonical Form in a Marriage Involving Two Catholics,” in K.W. VANN and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 1995, 93.

⁴⁶ See J.P. BEAL, “The Form of the Celebration of Marriage (cc. 1108–1123), in *CLSA, Comm2*, 1335. Cf. c. 1116, §2: “In either case, if some other priest or deacon who can be present is available, he must be called and be present at the celebration of the marriage together with the witnesses, without prejudice to the validity of the marriage before witnesses only.”

⁴⁷ See HUELS, *The Pastoral Companion*, 233.

⁴⁸ See DOYLE, “Marriage (cc. 1055–1165),” 762.

Canon 1080, §1. Whenever an impediment is discovered after everything has already been prepared for the wedding, and the marriage cannot be delayed without probable danger of grave harm until the dispensation is obtained from the competent authority, the local ordinary and, provided that the case is occult, all those mentioned in can. 1079, §§2–3 when the conditions prescribed therein have been observed possess the power of dispensing from all impediments except those mentioned in can. 1078, §2, n. 1.

§2. This power is valid even to convalidate a marriage if there is the same danger in delay and there is insufficient time to make recourse to the Apostolic See or to the local ordinary concerning impediments from which he is able to dispense.⁴⁹

Canon 1080 provides for dispensations from impediments in cases of grave and urgent necessity when the competent authority, who can grant the dispensations, cannot be reached. The canon sets up two conditions in which the canon can be used to exercise dispensing power. First, all preparations have been made for the wedding and secondly, the marriage cannot be delayed until the competent authority grants a dispensation without probable danger of grave harm. These two conditions are correspondent to one another. The probability of grievous harm increases once the wedding has been prepared and the time is close. The harm in this situation includes financial concerns as well as the spiritual welfare of the parties. A sufficient cause, distinct from the urgency of the situation is required for such dispensation.⁵⁰

The dispensation of an impediment in cases of grave and urgent necessity as in c. 1080, §1 applies also to convalidation of a marriage. However, convalidation usually involve less social preparation than weddings and allow the schedule to be more flexible.

⁴⁹ Canon 1080, §1: “Quoties impedimentum detegatur cum iam omnia sunt parata ad nuptias, nec matrimonium sine probabili gravis mali periculo differri possit usquedum a competenti auctoritate dispensatio obtineatur, potestate gaudent dispensandi ab omnibus impedimentis, iis exceptis de quibus in can. 1078, §2, n. 1, loci Ordinarius et, dummodo casus sit occultus, omnes de quibus in can. 1079, §§2–3, servatis condicionibus ibidem praescriptis.” §2: “Haec potestas valet etiam ad matrimonium convalidandum, si idem periculum sit in mora nec tempus suppetat recurrendi ad Sedem Apostolicam vel ad loci Ordinarium, quod attinet ad impedimenta a quibus dispensare valet.”

⁵⁰ See BEAL, “Diriment Impediments in General (cc. 1073–1082),” 1280–1281.

Thus, in the case of a convalidation, it may be difficult to determine the urgency required to resort to the power of dispensation in c. 1080.⁵¹

As there is no mechanism in Thai civil law similar to dispensing from marriage impediments, the question of urgency does not play any role in application of Thai civil law.

Good Church order requires proper recording of events bearing on the canonical status of the faithful. Accordingly, dispensations from matrimonial impediments given in the external forum with juridic effects should be executed in writing:⁵²

Canon 1081. The pastor or the priest or deacon mentioned in can. 1079, §2 is to notify the local ordinary immediately about a dispensation granted for the external forum; it is also to be noted in the marriage register.⁵³

The pastor, priest, or deacon who grants a dispensation by virtue of c. 1079 §2 must record the dispensation in the marriage register of the parish in which the marriage took place. However, even if the minister mentioned above neglects this obligation, the validity of the dispensation granted in the external forum will not be affected.⁵⁴

A dispensation granted in the non-sacramental internal forum also needs to be recorded, but in a manner that protects the couple's privacy and the occult character of the impediment:⁵⁵

Canon 1082. Unless a rescript of the Penitentiary provides otherwise, a dispensation from an occult impediment granted in the non-sacramental internal forum is to be noted in a book which must be kept in the secret archive of the curia; no other dispensation for the external forum is necessary if afterwards the occult impediment becomes public.⁵⁶

⁵¹ See *ibid.*, 1281.

⁵² See *ibid.*

⁵³ Canon 1081: "Parochus aut sacerdos vel diaconus, de quibus in can. 1079, §2, de concessa dispensatione pro foro externo Ordinarius loci statim certiore faciat; eaque adnotetur in libro matrimoniorum."

⁵⁴ See DOYLE, "Marriage (cc. 1055–1165)," 764.

⁵⁵ See BEAL, "Diriment Impediments in General (cc. 1073–1082)," 1282.

⁵⁶ Canon 1082: "Nisi aliud ferat Paenitentiarie rescriptum, dispensatio in foro interno non sacramentali concessa super impedimento occulto, adnotetur in libro, qui in secreto curiae archivo

An occult impediment dispensed in the non-sacramental internal forum is to be recorded in a special book kept in the diocesan secret archives. If the circumstances of the impediment become public after a dispensation has been granted in the non-sacramental internal forum, then a new dispensation in the external forum is not required. Obviously enough, if a dispensation has been granted in the sacramental forum there will be no record for this case and the priest who granted it will not be able to discuss it since all this matter is covered by the seal of the confessional. Therefore, if an occult impediment becomes public in those circumstances, there may be a need to grant a dispensation from it in the external forum.⁵⁷

Since there is no concept of dispensation in Thai civil law, no equivalent process exists in Thai civil law. Thai civil marriages are registered at the district office. This register is accessible by all district offices in the country.⁵⁸

3.1.2 – Impediments in Particular

Any Catholic person who desires to get married in Thailand must recognize the impediments that arise from the 1983 Code as well as the requirements of Thai civil law. The following section will therefore compare each marriage impediment of the 1983 Code with marriage restrictions of Thai civil law.

asservandus est, nec alia dispensatio pro foro externo est necessaria, si postea occultum impedimentum publicum evaserit.”

⁵⁷ See DOYLE, “Marriage (cc. 1055–1165),” 764.

⁵⁸ Cf. section 1157–1158 of Civil and Commercial Code.

3.1.2.1 – Impediment of Age

Any person who wants to get married should be of a suitable age that is determined by the law:

Canon 1083, §1. A man before he has completed his sixteenth year of age and a woman before she has completed her fourteenth year of age cannot enter into a valid marriage.

§2. The conference of bishops is free to establish a higher age for the licit celebration of marriage.⁵⁹

In his commentary John P. Beal defines matrimonial consent as “[...] an act of the will which establishes between the spouses a partnership of the whole of life.”⁶⁰ To give valid consent a person requires sufficient physical, intellectual, and emotional maturity to acknowledge and accept the responsibility for the obligations of whole life and the physical maturity for a sexual relationship in the marriage. The Church has required a legal minimum age for entering into a marriage to prevent the detrimental effects of marriages on young people and their children, and to safeguard the common good of society.⁶¹

In accordance with the 1983 Code, a man and woman can marry validly when he has completed his sixteenth year and she has completed her fourteenth year. Non-Catholics are bound by the impediment of lack of age when entering marriages with Catholics.⁶² If a Catholic enters an invalid marriage due to lack of age, it cannot be

⁵⁹ Canon 1083, §1: “Vir ante decimum sextum aetatis annum completum, mulier ante decimum quartum item completum, matrimonium valide inire non possunt.” §2: “Integrum est Episcoporum conferentiae aetatem superiorem ad licitam matrimonii celebrationem statuere.”

⁶⁰ BEAL, “Diriment Impediments in General (cc. 1083–1094),” 1283.

⁶¹ See *ibid.*

⁶² Cf. c. 1059.

convalidated simply by the passage of time; the consent must be renewed in accordance with cc. 1156–1158.⁶³

Baptized non-Catholics are “bound by the minimum age requirement of the law of their own church or ecclesial community, if there is one, or by that established in civil law, if their church or ecclesial community defers to it.”⁶⁴ Non-baptized persons marrying among themselves are not bound by the ecclesiastical impediment. However, they are bound by civil laws which may include minimum age requirements. A marriage between two non-baptized persons which is considered invalid according to civil law because of the lack of age would also be considered invalid in canon law. In an unlikely case, when civil law did not state the minimum age required for marriage, actual puberty would need to be considered (which was the norm in the Western Church until the 1917 Code which established the minimum age for marriage to sixteen for men and fourteen for women [CIC/17, c. 1067]).⁶⁵

Conferences of bishops may establish a higher age than that mentioned in c. 1083, §2, but only for the liceity of marriage. If such legislation is enacted, then

⁶³ Cf. c. 1156, §1: “To convalidate a marriage which is invalid because of a diriment impediment, it is required that the impediment ceases or is dispensed and that at least the party conscious of the impediment renews consent.” §2: “Ecclesiastical law requires this renewal for the validity of the convalidation even if each party gave consent at the beginning and did not revoke it afterwards.” c. 1157: “The renewal of consent must be a new act of the will concerning a marriage which the renewing party knows or thinks was null from the beginning.” c. 1158, §1: “If the impediment is public both parties must renew the consent in canonical form, without prejudice to the prescript of can. 1127, §2.” c. 1158, §2: “If the impediment cannot be proven, it is sufficient that the party conscious of the impediment renews the consent privately and in secret, provided that the other perseveres in the consent offered; if the impediment is known to both parties, both are to renew the consent.” See also HUELS, *The Pastoral Companion*, 238.

⁶⁴ BEAL, “Diriment Impediments in General (cc. 1083–1094),” 1284. Cf. CCEO, c. 780, §2, 1°: “the law proper to the Church or ecclesial community to which the non-Catholic belongs, if that community its own matrimonial law.”

⁶⁵ See BEAL, “Diriment Impediments in General (cc. 1083–1094),” 1283.

permission from the local ordinary would be required for a person under that age to marry licitly.⁶⁶

The impediment of age may be dispensed by the local ordinary. However, granting the dispensation for this impediment would certainly require a most serious reason while taking into account the maturity of the person, the rate of divorce for teenage-marriages of that area, and the natural right of the people to marry.⁶⁷

The Catholic Bishops' Conference of Thailand (CBCT) issued the particular norms for the Church in Thailand.⁶⁸ Decree no. 12 stipulates the minimum age for Catholics who desire to marry:

In accordance with the prescription of canon 1083, §2, the Catholic Bishops' Conference of Thailand hereby decrees that the minimum age for a lawful marriage before the Catholic Church in Thailand shall be 17 years complete for both parties. In particular cases, the local Ordinary may dispense from this decree after having consulted with the pastor(s) of the Catholic party or parties (cf. canon 88).⁶⁹

Therefore, the minimum legal age specified by the Church in Thailand is above the canonical age. This decree also states that the local ordinary may dispense from this requirement of age in particular cases, after having consulted with the pastors of the Catholic party or parties.

However, the Catholic Church cannot grant a dispensation for the impediment of age for a person whose age is lower than what civil law accepts. In this case, the party must obtain a civil decree by the Court for the marriage to be civilly valid.⁷⁰

⁶⁶ Cf. DOYLE, "Marriage (cc. 1055–1165)," 764.

⁶⁷ See *ibid.*, 765; see also H. BALUMA, "Legal Age to Marry," in *Boletín Eclesiástico de Filipinas*, 77 (2002), 471–473; GRAMONT and WAUK, "Capacity and Incapacity to Contract Marriage," 148–153; V. VONDENBERGER, "Validity of Marriage and Non-Age," in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2004, 155–156.

⁶⁸ CATHOLIC BISHOPS' CONFERENCE OF THAILAND, *Particular Norms for Thailand*, Bangkok, Catholic Bishops' Conference of Thailand, 1992.

⁶⁹ CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 12: Minimum Age for Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992, in Appendix 2, 266.

Thai civil law states the minimum legal age of a man and a woman who marry in the Kingdom of Thailand:

Section 1448. A marriage can take place only when the man and woman have completed their seventeenth year of age. But the Court may, in case of having appropriate reason, allow them to marry before attaining such age.

Section 1448 mentions that a marriage can take place only when the man and woman have reached their seventeenth year of age. Consequently, the marriage is invalid if one of the parties is under the age of seventeen. However, in certain circumstances, the parties may receive permission from the civil court to marry before they have attained this age. For example, permission may be granted for a woman who is pregnant or has already given birth to a child.⁷¹ The legal age for marriage in Thailand is above that stated by canon law, but it is the same age as stated in the CBCT decree. The reason for the CBCT issuing this decree is that a person who is 17 years old is considered to be an adult in Thailand and Thai civil law section 1448 states that a person who has completed their seventeenth year can validly contract a marriage.⁷² Therefore a person 17 years of age is considered mature and capable of making an informed decision to marry.

3.1.2.2 – Impotence

The impediment of impotence refers to the incapacity of a man or a woman to have complete sexual intercourse:

Canon 1084, §1. Antecedent and perpetual impotence to have intercourse, whether on the part of the man or the woman, whether absolute or relative, nullifies marriage by its very nature.

⁷⁰ See J.I. BAÑARES, “Individual Diriment Impediments,” in *Exegetical Comm*, 1173; see also section 1148 of Civil and Commercial Code.

⁷¹ See STACY, *Elements of Thai Civil Law*, 156.

⁷² Cf. section 1448 of Civil and Commercial Code.

§2. If the impediment of impotence is doubtful, whether by a doubt the law or a doubt about a fact, a marriage must not be impeded nor, while the doubt remains, declared null.

§3. Sterility neither prohibits nor nullifies marriage, without prejudice to the prescript of can. 1098.⁷³

Impotence constitutes an impediment of divine natural law; therefore, it binds everyone, baptized or non-baptized, and cannot be dispensed. By nature, marriage requires the mutual exchange of the right to have sexual intercourse; therefore, if someone lacks the ability to perform the sexual act of intercourse, he or she has invalidly entered a marriage.⁷⁴

Impotence is thus the inability to have normal sexual intercourse suitable for having children. Impotence may be organic or functional. For a man, organic impotence relates to either lack of a penis or an abnormal penis that prohibits vaginal insertion. A man's functional impotence results in a failure to achieve an erection, penetrate the woman's vagina, and ejaculate. It is not necessary that the ejaculate be capable of conception. For a woman, organic impotence occurs when she lacks a vagina or her vagina is not capable of receiving the male organ. A woman's functional impotence can be the result of physical or psychological causes.⁷⁵

The inability to complete the sexual intercourse must be pre-existing and permanent, meaning it must have existed before the marriage and cannot be cured naturally. Subsequent impotence that occurs after a person is married has no effect on the validity of the marriage. Relative impotence means a person is incapable of having sexual

⁷³ Canon 1084, §1: "Impotentia coeundi antecedens et perpetua, sive ex parte viri sive ex parte mulieris, sive absoluta sive relativa, matrimonium ex ipsa eius natura dirimit." §2: "Si impedimentum impotentiae dubium sit, sive dubio iuris sive dubio facti, matrimonium non est impediendum nec, stante dubio, nullum declarandum." §3: "Sterilitas matrimonium nec prohibet nec dirimit, firmo praescripto can. 1098."

⁷⁴ See HUELS, *The Pastoral Companion*, 238–239.

⁷⁵ See *ibid.*, 239.

intercourse with a particular person but not with all persons. Absolute impotence renders the person incapable of having sexual intercourse with anyone.⁷⁶

Paragraph two of c. 1084 states that if doubt exists about the existence of impotence or whether it is permanent and incurable in nature, marriage is permissible. If the couple is capable of creating a community of life and can have complete sexual intercourse then the marriage is to be permitted even though it is a doubtful that the couple can really have sexual intercourse.⁷⁷ Therefore, if the doubt arises before marriage, the marriage may take place; if this arises after the celebration of marriage, the marriage cannot be declared null and void as long as the doubt remains just a doubt.⁷⁸

Paragraph three of c. 1084 mentions that sterility is the incapacity for procreation. A person, who is sterile can have sexual intercourse but he or she is incapable of creating offspring. Sterility includes young people before they reach puberty. A marriage, even when one partner is sterile, is valid and licit, because the couple does not exchange the right to have children but the right to have an act suitable for having children. Nevertheless, the deceitful concealment of one's sterility to obtain the consent of the other party renders the marriage invalid according to c. 1098.⁷⁹

⁷⁶ See DOYLE, "Marriage (cc. 1055–1165)," 765–766.

⁷⁷ See *ibid.*, 766.

⁷⁸ See BAÑARES, "Individual Diriment Impediments," 1176.

⁷⁹ See HUELS, *The Pastoral Companion*, 241; see also A. ENEMALI, "Impotence and Sterility as Leading Cause of Marital Breakdown in Nigeria, in *Vidyajyoti*, 81 (2017), 695–708. For a comprehensive treatment of the question of sterility in the context of nullity of marriage, see S. ZANIKIRE TUMUSIIME, *The Church's Response to Childless Couples: Canonical and Pastoral Considerations on Sterility in the Ugandan Context* (C. 1084, §3), JCD thesis, Ottawa, Saint Paul University, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwj1pTG1s3qAhXtmHIEHZ_CA2AQFjAOegQIAxAB&url=https%3A%2F%2Fruor.uottawa.ca%2Fbitstream%2F10393%2F36211%2F1%2FTumusiime%2520Zanikire%2520Sebastian%25202017%2520Thesis.pdf&usg=AOvVaw3sGitBErw_uhgd0gokT3mp.

In Thai civil law, there is no mention of impotence or sterility as a condition that would prohibit a person from marrying; therefore, in Thailand an impotent person can enter a civilly valid marriage.

3.1.2.3 – Prior Bond

Gaudium et spes, no. 48 declares that

[t]he intimate partnership of life and the love which constitutes the married state has been established by the creator and endowed by him with its own proper laws: it is rooted in the contract of its partners, that is, in their irrevocable personal consent. It is an institution confirmed by the divine law (*institutum ordinatione divina firmum oritur*) and receiving its stability, [...] from the human act by which the partners mutually surrender themselves to each other: for the good of the partners, of the children, and of society this sacred bond no longer depends on human decision alone.⁸⁰

This teaching finds its canonical expression in c. 1134: “From a valid marriage there arises between the spouses a bond which by its nature is perpetual and exclusive. Moreover, a special sacrament strengthens and, as it were, consecrates the spouses in a Christian marriage for the duties and dignity of their state.”

When a man and a woman have exchanged valid matrimonial consent, a natural bond exists in this marriage. The marriage bond brings a lawful obligation of partnership fidelity inasmuch as this bond still exists. The bond exists until the death of one of the spouses or the lawful dissolution of the bond in accordance with the Church’s law.⁸¹

Canon 1055, §1 points to the special character of the bond between two baptized persons: “The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life [...] has been raised by Christ the Lord to the dignity of a sacrament between the baptized,” while §2 states the principle that: “[...]”

⁸⁰ GS, no. 48, in AAS, 58 (1966), 1067–1069, *FLANNERY1*, 950–952.

⁸¹ See DOYLE, “Marriage (cc. 1055–1165),” 766.

a valid matrimonial contract cannot exist between the baptized without it being by that fact a sacrament.”

In other words, a natural bond of marriage exists in a valid marriage between two non-baptized persons or in a marriage between a baptized and non-baptized person. If both parties are baptized, their matrimonial covenant constitutes a sacramental bond.⁸² In either case, the bond of marriage is exclusive, which rules out having more than one spouse at a time.

Canon 1085 formulates the impediment of a prior bond:

Canon 1085, §1. A person bound by the bond of a prior marriage, even if it was not consummated, invalidly attempts marriage.

§2. Even if the prior marriage is invalid or dissolved by any reason, it is not on that account permitted to contract another before the nullity or dissolution of the prior marriage is established legitimately and certainly.⁸³

A prior bond of marriage impediment binds both Catholics and non-Catholics because it is based on natural and divine positive law, therefore it cannot be dispensed even in danger of death situations. The impediment ceases when one of the spouses dies. In some cases, however, the bond can be dissolved. Marriages that are ratified but non-consummated can be dissolved by the Roman Pontiff for just cause at the request of one or both spouses.⁸⁴ Marriage entered into by two non-baptized persons can be dissolved by virtue of Pauline privilege if one spouse is baptized and the unbaptized spouse departs.⁸⁵

⁸² See *ibid.*

⁸³ Canon 1085, §1: “Invalidum matrimonium attentat qui vinculo tenetur prioris matrimonii, quamquam non consummati.” §2: “Quamvis prius matrimonium sit irritum aut solutum qualibet ex causa, non ideo licet aliud contrahere, antequam de prioris nullitate aut solutione legitime et certo constiterit.”

⁸⁴ Cf. c. 1142: “For a just cause, the Roman Pontiff can dissolve a non-consummated marriage between baptized persons or between a baptized party and a non-baptized party at the request of both parties or of one of them, even if the other party is unwilling.”

⁸⁵ Cf. c. 1143, §1: “A marriage entered into by two non-baptized persons is dissolved by means of the pauline privilege in favor of the faith of the party who received baptism by the very fact that a new marriage is contracted by the same party, provided that the non-baptized party departs.” §2: “The non-baptized party is considered to depart if he or she does not wish to cohabit with the baptized party or

The bond of non-sacramental marriage can be dissolved by the Roman Pontiff in favor of the faith for the sake of the Catholic party. Additionally, the dissolution of a marriage can take place in accordance with the provisions of c. 1148 referring to polygamous marriages, and of c. 1149 referring to non-sacramental (or even ratified but non-consummated) marriages in which the couple has been separated due to persecution or captivity.⁸⁶

Canon law establishes that the impediment of prior bond arises from a valid marriage that was celebrated according to the law.⁸⁷ Canon 1085, §2 prohibits the celebration of a new marriage until all the previous marriages are legitimately declared null by a competent tribunal or dissolved by the proper authority, to avoid confusion and uncertainty about the validity of any subsequent marriage. However, a declaration of nullity is not required in the case where the prior marriage lacked the required canonical form.⁸⁸

Thai civil marriage is defined as a monogamous marriage. Section 1452 of Thai civil law states:

Section 1452. A marriage cannot take place if the man or woman is already the spouse of another person.

If a person is in a registered marriage, he or she cannot enter a new marriage.

Polygamy was legal and widely practiced in the past, but in 1935 the institution of

cohabit peacefully without affront to the Creator unless the baptized party, after baptism was received, has given the other a just cause for departing.”

⁸⁶ See KOWAL and WOESTMAN, *Special Marriage Cases and Procedures*, 29–80; see also F.G. MORRISEY, “The Impediment of Ligamen and Multiple Marriages,” in *J*, 40 (1980), 406–418.

⁸⁷ Cf. c. 1060.

⁸⁸ See BEAL, “Diriment Impediments in General (cc. 1083–1094),” 1287; cf. c. 1108; see also MORRISEY, “The Impediment of Ligamen and Multiple Marriages,” 406–418; J. JOHNSON, “Ligamen and Multiple Marriages: Too Good to Be True?” in *J*, 42 (1982), 222–228; S.J. THENGUMPALLY, “Marriages of Unbaptized Persons: Misapprehensions and the Right Approach of the Church,” in *Eastern Legal Thought*, 9–10 (2010–2011), 42–85.

polygamy was abolished. Thai family law is based on monogamy which is equivalent to the notion of unity of marriage in canon law.⁸⁹

3.1.2.4 – Disparity of Worship

A marriage between a Catholic and a non-baptized person is considered an impediment because the Catholic spouse may have difficulties in practicing the faith and in baptizing and educating any children to be born in this marriage. Therefore, the law creates an obstacle, diriment impediment, to a marriage between a Catholic and a non-baptized person:

Canon 1086, §1. A marriage between two persons, one of whom has been baptized in the Catholic Church or received into it, and the other of whom is not baptized, is invalid.

§2. A person is not to be dispensed from this impediment unless the conditions mentioned in cc. 1125 and 1126 have been fulfilled.

§3. If at the time the marriage was contracted one party was commonly held to have been baptized or the baptism was doubtful, the validity of marriage must be presumed according to the norm of c. 1060 until it is proven certainly that one party was baptized but the other was not.⁹⁰

The impediment of disparity of worship binds only those who are baptized in the Catholic Church or received into it; hence non-Catholics are not bound by it. The impediment exists between a Catholic and a non-baptized person. The dispensation from this impediment is granted under the same canonical conditions as for mixed marriage (cc. 1125–1126).⁹¹

⁸⁹ See STACY, *Elements of Thai Civil Law*, 155; cf. c. 1056.

⁹⁰ Canon 1086, §1: “Matrimonium inter duas personas, quarum altera sit baptizata in Ecclesia catholica vel in eandem recepta, et altera non baptizata, invalidum est. §2: “Ab hoc impedimento ne dispensetur, nisi impletis condicionibus de quibus in can. 1125 et 1126. §3: “Si pars tempore contracti matrimonii tamquam baptizata communiter habebatur aut eius baptismus erat dubius, praesumenda est, ad normam can. 1060, validitas matrimonii, donec certo probetur alteram partem baptizatam esse, alteram vero non baptizatam.”

⁹¹ See DOYLE, “Marriage (cc. 1055–1165),” 768.

A person is considered Catholic if he or she was baptized in the Catholic Church or received into it if after being validly baptized in another Christian Church or ecclesial community that is not in full communion with the Catholic Church. In the case of any doubt regarding the validity of baptism, the prescriptions of c. 845 and c. 869 must be observed.⁹²

Leaving the Church by a formal act does not exempt the Catholic from the observance of ecclesiastical laws. Particularly, even though the Code of Canon Law of 1983 expressly exempted those who left the Catholic Church by a formal act from the impediment of disparity of worship,⁹³ with Benedict XVI's apostolic letter *motu proprio Omnium in mentem*, of 26 October 2009, this exception is no longer permitted.⁹⁴

The impediment concerns those cases in which the non-baptized party has never been validly baptized. It is the responsibility of the local ordinary to grant a dispensation from the impediment of disparity of worship, but he is not entitled to do so if the conditions of c. 1125 have not been fulfilled.⁹⁵ Canon 1126 confirms the competence of

⁹² Cf. c. 845, §1: "Since the sacrament of baptism, confirmation, and orders imprint a character, they cannot be repeated." §2: "If after completing a diligent inquiry a prudent doubt still exists whether the sacraments mentioned in §1 were actually or validly conferred, they are to be conferred conditionally." C. 869, §1: "If there is a doubt whether a person has been baptized or whether baptism was conferred validly and the doubt remains after a serious investigation, baptism is to be conferred conditionally." §2: "Those baptized in a non-Catholic ecclesial community must not be baptized conditionally unless, after an examination of the matter and form of the words used in the conferral of baptism and consideration of the intention of the baptized adult and the minister of baptism, a serious reason exists to doubt of validity of the baptism." §3: "If in the case mentioned in §§1 and 2 the conferral or validity of the baptism remains doubtful, baptism is not to be conferred until after the doctrine of the sacrament of baptism is explained to the person or, in the case of an infant, to the parents."

⁹³ See c. 1081, §1.

⁹⁴ See in AAS, 102 (2010), 8–10, in EUART, ALESANDRO, and HARTMANN (eds.), *Roman Replies and CLSA Advisory Opinions*, 35–48. *Omnium in mentem* entered into force on April 9, 2010.

⁹⁵ Cf. c. 1125.

the conferences of bishops with regard to establishing the exact way in which the required declarations and promises are to be made.⁹⁶

A marriage between a Catholic and a Buddhist (non-baptized) would be affected by the impediment of disparity of worship.⁹⁷ Many such marriages have taken place in Thailand and that has become an important pastoral issue for the Catholic Church. Thai civil law does not forbid a marriage between two persons who are from different religious faiths; consequently, a marriage between a Catholic and a Buddhist is a lawful marriage under Thai civil law.

3.1.2.5 – Sacred Orders

The obligation of celibacy, a disciplinary law, is one of the essential requirements for the liceity of sacred orders and the permanent diaconate in the Latin Church.⁹⁸ Canon 1087 established a diriment impediment:

Canon 1087. Those in sacred orders invalidly attempt marriage.⁹⁹

Canon 1087 is based on the norm of celibacy for sacred ministers.¹⁰⁰ The Church established this impediment due to the importance of clerical celibacy for those in sacred orders and in order to protect this special gift of God.¹⁰¹

⁹⁶ Cf. c. 1126. See HERVADA, “Individual Diriment Impediments,” 831. See also S. ARIOKASARNY, “Challenges and Opportunities of Interreligious Dialogue in Interfaith Marriages: An Asian Perspective,” in *INTAMS*, 13 (2007), 191–201; J.J. GARCÍA FAÍLDE, “Matrimonio canónico celebrado con impedimento de disparidad de cultos y matrimonio canónico mixto,” in *Memorias*, 24 (2000), 131–137.

⁹⁷ See P.J. COGAN, “Disparity of Cult Marriage between Two Baptized Persons,” in K.W. VANN and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 1995, 88–90.

⁹⁸ Cf. c. 1037: “An unmarried candidate for the permanent diaconate and a candidate for the presbyterate are not to be admitted to the order of diaconate unless they have assumed the obligation of celibacy in the prescribed rite publicly before God and the Church or have made perpetual vows in a religious institute.” See DOYLE, “Marriage (cc. 1055–1165),” 769.

⁹⁹ Canon 1087: “Invalide matrimonium attentant, qui in sacris ordinibus sunt constituti.”

The impediment binds those in validly received sacred orders: bishops, presbyters, and deacons, including permanent deacons. Hence, if a cleric wishes to marry validly, he must submit a petition to receive a dispensation from the obligation of celibacy, which only the Pope may grant.¹⁰² However, the obligation of celibacy ceases with the declaration of the invalidity of sacred ordination.¹⁰³

Pope Benedict XVI in a letter to the Congregation for Divine Worship and the Discipline of the Sacraments, dated 7 July 2005, has directed that, as of 1 January 2006, deacons who are widowed and who desire to marry with a dispensation from the *impedimentum ordinis* while remaining in the ministry may submit their cases to the same Congregation. However, they will be taken into consideration only when the following conditions occur together: great pastoral usefulness of the deacon's ministry, attestation by the Bishop, and the care of minor children.¹⁰⁴

In danger of death cases, deacons can be dispensed by the local ordinary, and in cases in which the local ordinary cannot be reached, also by the pastor, the properly delegated sacred minister, and the priest or deacon who assists at marriage according to

¹⁰⁰ Cf. c. 277: “§1. Clerics are obliged to observe perfect and perpetual continence for the sake of the kingdom of heaven and therefore are bound to celibacy which is a special gift of God by which sacred ministers can adhere more easily to Christ with an undivided heart and are able to dedicate themselves more freely to the service of God and humanity; §2. Clerics are to behave with due prudence towards persons whose company can endanger their obligation to observe continence or give rise to scandal among the faithful; §3. The diocesan bishop is competent to establish more specific norms concerning this matter and to pass judgment in particular cases concerning the observance of this obligation.”

¹⁰¹ See BAÑARES, “Individual Diriment Impediments,” 1187.

¹⁰² See c. 291.

¹⁰³ Cf. cc. 290, 1° and 291.

¹⁰⁴ As indicated in F. ARINZE, [the then prefect of the Congregation for Divine Worship and the Discipline of the Sacraments], Letter to Presidents of Conferences of Bishops and Superiors General, July 13, 2005, in W.H. WOESTMAN, *The Sacrament of Orders and the Clerical State: A Commentary on the Code of Canon Law*, 3rd rev. and updated ed., Faculty of Canon Law, Saint Paul University, Ottawa, 2006, 456.

the norm of can. 1116, §2.¹⁰⁵ Priests (*sacerdotes*) may only be dispensed from this impediment by the Apostolic See. While the confessor may dispense from occult impediments in the danger of death situations, and the discussion of Code revision committee might suggest¹⁰⁶ that “occult” in this case could be understood as “not divulged” and in no risk of divulgation in the future, nevertheless, since dispensing power is to be strictly interpreted (c. 92), the power of dispensation granted to confessors is to be interpreted as related to impediments which cannot be proved in the external forum.¹⁰⁷

Thai civil law does not mention any marriage obstacle for those considered broadly as “clerics” (i.e. official functionaries of a religious cult). Nevertheless, they are expected to follow their own laws and customs. For example, Buddhist monks, who constitute the majority of “clerics” in Thailand, are obliged to be celibate, therefore they are not allowed to get married. Their own rules state that they are not allowed sexual intercourse because it is one of the *Pārājika*¹⁰⁸ that would result in the expulsion of the monk from the *Sangha*. In practice, Buddhist monks do not marry.

¹⁰⁵ See c. 1079.

¹⁰⁶ See *Communicationes*, 9 (1977), 348–350.

¹⁰⁷ See BEAL, “Diriment Impediments in General (cc. 1083–1094),” 1279; see also G. READ, “A Comment on the Recent Circular Letter from the Congregation for Divine Worship and the Discipline of the Sacraments concerning Dispensation from Priestly Obligations and of Deacons from the Impediment of Orders,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 112, 1997, 40–44; CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, “Divorced Permanent Deacon Seeking Declaration of Nullity and Remarriage Refused Permission to Continue in Ministry” in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2003, 21–22.

¹⁰⁸ “*Pārājika* (Sanskrit): “Group of four offences that are the first and most serious in the Buddhist monastic code of discipline. The penalty for any of the four offences is lifelong expulsion from the monastic order (*Sangha*). The four offences are 1) sexual intercourse; 2) serious theft; 3) murder; 4) falsely claiming to have attained supernatural powers” (KEOWN, *A Dictionary of Buddhism*, 211).

3.1.2.6 – Perpetual Vows of Chastity

Anyone, either man or woman, who takes a public perpetual vow of chastity in a religious institute is bound by the impediment which arises from the vow and thus may not validly marry:

Canon 1088. Those bound by a public perpetual vow of chastity in a religious institute invalidly attempt marriage.¹⁰⁹

The impediment binds perpetually professed members of either clerical or lay institutes, whether they are of pontifical or diocesan right. The perpetual vow may be either solemn or simple. Religious persons in temporary vows, members of secular institutes, or members of societies of apostolic life are not bound by the impediment.

A member of a religious institute, including a non-cleric, who attempts marriage or is civilly married, is *ipso facto* dismissed from his or her own institute,¹¹⁰ as well as incurring a *latae sententiae* interdict.¹¹¹ In such a case, a religious man would be considered irregular for receiving sacred orders.¹¹²

In danger of death, the local ordinary, pastor, other priest or deacon, or confessor, in accordance with c. 1079, may dispense the impediment. However, for a dispensation in

¹⁰⁹ Canon 1088: “Invalidae matrimonium attemptant, qui voto publico perpetuo castitatis in instituto religioso adstricti sunt.”

¹¹⁰ Cf. c. 694, §1: “A member must be held as *ipso facto* dismissed from an institute who: 2° has contracted marriage or attempted it, even only civilly.”

¹¹¹ Cf. c. 1394, §2: “A perpetually professed religious who is not a cleric and who attempts marriage, even if only civilly, incurs a *latae sententiae* interdict, without prejudice to the prescript of can. 694.”

¹¹² Cf. c. 1041: “The following are irregular for receiving orders: 3° a person who has attempted marriage, even only civilly, while either impeded personally from entering marriage by a matrimonial bond, sacred orders, or a public perpetual vow of chastity, or with a woman bound by a valid marriage or restricted by the same type of vow.” See BAÑARES, “Individual Diriment Impediments,” 1194; see also BEAL, “Diriment Impediments in General (cc. 1083–1094),” 1290–1291.

an urgent case (c. 1080), the local ordinary may dispense only those who took the vow in an institute of diocesan right.¹¹³

There is no reference in Thai civil law to members of religious institutes. Men or women of all religions may get validly married according to Thai civil law; however, their marriages may be invalid according to the rule and custom of their own religions.

3.1.2.7 – Abduction

Impediment of abduction arises when a man has abducted, kidnapped, or detained a woman for the purpose for marrying her; this man may not validly marry with this woman.¹¹⁴

Canon 1089. No marriage can exist between a man and a woman who has been abducted or at least detained with a view of contracting marriage with her unless the woman chooses marriage of her own accord after she has been separated from the captor and established in a safe and free place.¹¹⁵

The impediment of abduction only applies to a man who has abducted or has detained a woman and then tried to force her into marriage, whether he does this by himself or employs agents. This does not apply to a woman who has abducted a man and compelled him to marry; however, this marriage could be invalid on the grounds of force or grave fear.¹¹⁶

¹¹³ See HUELS, *The Pastoral Companion*, 245; see also P. PELLEGRINO, “L’ Impedimento del voto pubblico perpetuo di castità in un istituto religioso nel nuovo diritto matrimoniale canonico (CIC, can. 1088; CCEO, can. 805),” in *Ius canonicum*, 40, (2000), 73–98.

¹¹⁴ See DOYLE, “Marriage (cc. 1055–1165),” 770.

¹¹⁵ Canon 1089: “Inter virum et mulierem abductam vel saltem retentam intuitu matrimonii cum ea contrahendi, nullum matrimonium consistere potest, nisi postea mulier a raptore separata et in loco tuto ac libero constituta, matrimonium sponte eligat.”

¹¹⁶ Cf. c. 1103: “A marriage is invalid if entered into because of force or grave fear from without, even if unintentionally inflicted, so that a person is compelled to choose marriage in order to be free from it.” See HUELS, *The Pastoral Companion*, 246–247

Canon 1089 speaks of the concept of detention: a woman must be separated from her captor and in a safe place before she can choose freely to marry.¹¹⁷ A woman who might be abducted, but later on decides freely to marry her abductor, on the one hand could validly enter into a marriage according to the canonical doctrine of consent, but, on the other hand, she could not marry validly because of the impediment. Therefore, if she wishes to marry her abductor validly, the impediment must be terminated by her separating from her abductor, and being established in a place where she is safe and free from her abductor in order that she can decide freely whether she wants to marry him.¹¹⁸

Although there is no mention of abduction in Thai civil law, both parties in a marriage must consent unconditionally and their consent must not be subject to any stipulation.¹¹⁹ Consequently, either a man or a woman abducting someone to force them into marriage, could render this marriage null or void in law because one spouse lacks the necessary freedom to consent.¹²⁰

3.1.2.8 – Crime

An impediment of crime exists when a man or a woman murders his or her own spouse, or the other's spouse, in order to marry a particular person:¹²¹

Canon 1090. §1. Anyone who with a view to entering marriage with a certain person has brought about the death of that person's spouse or of one's own spouse invalidly attempts this marriage.

¹¹⁷ See BAÑARES, "Individual Diriment Impediments," 1195.

¹¹⁸ See HUELS, *The Pastoral Companion*, 246–247; see also B.F.L. FAIR, *The Impediment of Abduction: A Historical Synopsis and Commentary*, Canon Law Studies, no. 194, Washington, DC, Catholic University of America, 1944; C.P. GARCIA, "El matrimonio en el ordenamiento canónico: posibles líneas de reforma legislativa," in *Revue de droit canonique*, 70 (2013), 195–227.

¹¹⁹ Cf. section 1458 of the Civil and Commercial Code. See STACY, *General Principle of Thai Private Law*, 222.

¹²⁰ Cf. section 1495 of the Civil and Commercial Code.

¹²¹ See DOYLE, "Marriage (cc. 1055–1165)," 771.

§2. Those who have brought about the death of a spouse by mutual physical or moral cooperation also invalidly attempt a marriage together.¹²²

There are two categories of crime that would bring about the impediment: first, when a person kill his or her own spouse or the spouse of the other person for the purpose of marrying that person; and second, when two people cooperate to bring about a spouse's death, even if they have no intention of marrying each other. In either case, they must commit the actual murder for the impediment to arise. The impediment exists whether either or both committed the murder, or if either or both hired a third party to commit the murder.¹²³

The impediment of crime never ceases and the dispensation from this impediment is reserved to the Holy See.¹²⁴ It is never given in public cases. In the case of the internal sacramental forum, a dispensation is sought from the Apostolic Penitentiary without revealing the identity of the persons involved. The impediment of crime may also be dispensed in danger of death and urgent cases in accordance with cc. 1079–1082. However, the dispensation of this impediment has rarely been granted.¹²⁵

To kill someone for any reason is considered murder in Thai criminal law. Hence, a person who murders his or her own spouse or the spouse of another for the purpose of marrying would be considered a criminal and would receive the penalty outlined in Thai

¹²² Canon 1090, §1: "In linea recta consanguinitatis matrimonium irritum est inter omnes ascendentes et descendentes tum legitimos tum naturales." §2: "In linea recta consanguinitatis matrimonium irritum est inter omnes ascendentes et descendentes tum legitimos tum naturales."

¹²³ See HUELS, *The Pastoral Companion*, 247.

¹²⁴ Cf. c. 1078, §2: "Impediments whose dispensation is reserved to the Apostolic See are: 2° the impediment of crime mentioned in can. 1090."

¹²⁵ See HUELS, *The Pastoral Companion*, 247; see also BAÑARES, "Individual Diriment Impediments," 1203; J.D. HANNAN, "Cases and Studies: The Impediment of Crime," in *J*, 7 (1947), 305–307; E.N. PETERS, "On the Impugnation of a Marriage by a Promoter of Justice on the Basis of Crimen," in *Periodica*, 100 (2011), 65–79.

criminal law.¹²⁶ Given that the couple must appear in person before the Registrar, they would be unable to marry after any criminal offense until the sentence is served and the person is out of jail.¹²⁷ While such a person could marry in accordance with Thai civil law, he or she could not under the 1983 Code unless the dispensation had lawfully been granted.

3.1.2.9 – Consanguinity

Consanguinity refers to the blood relationship arising from either a legitimate or an illegitimate generation in which they have a common ancestor. All societies have taken some measures to stop marriages among close blood relatives.¹²⁸

Canon 1091, §1. In the direct line of consanguinity marriage is invalid between all ancestors and descendants, both legitimate and natural.

§2. In the collateral line marriage is invalid up to and including the fourth degree.

§3. The impediment of consanguinity is not multiplied.

§4. A marriage is never permitted if doubt exists whether the partners are related by consanguinity in any degree of the direct line or in the second degree of the collateral line.¹²⁹

A blood relationship between direct ancestors and their descendants is understood to be in the direct line. A blood relationship between two persons related to a common ancestor, but neither being the direct ancestor of the other is considered to be in the collateral line. Consanguinity is based on a true blood relationship and does not depend

¹²⁶ Cf. section 288 of Thai Criminal Code: “Whoever, murdering the other person, shall be imprisoned by death or imprisoned as from fifteen years to twenty years” (<http://library.siam-legal.com/thai-law/criminal-code-murder-death-sections-288-294/>).

¹²⁷ Cf. section 1458 of the Civil and Commercial Code: “A marriage can take place only if the man and woman agree to take each other as husband and wife, and such agreement must be declared publicly before the Registrar in order to have it recorded by the Registrar.”

¹²⁸ See BEAL, “Diriment Impediments in General (cc. 1073–1082),” 1292.

¹²⁹ Canon 1091: “§1. In linea recta consanguinitatis matrimonium irritum est inter omnes ascendentes et descendentes tum legitimos tum naturales. §2: In linea collateralis irritum est usque ad quartum gradum inclusive. §3: Impedimentum consanguinitatis non multiplicatur. §4: “Numquam matrimonium permittatur, si quod subest dubium num partes sint consanguineae in aliquo gradu lineae rectae aut in secundo gradu lineae collateralis.”

on marriage status of the common ancestor. Therefore, this impediment exists between a person and all of his or her direct descendants.¹³⁰

Consanguinity in the direct line is a divine and natural law impediment. However, it is not certain whether the consanguinity in the second degree of the collateral line constitutes a divine law impediment; consequently, c. 1078, §3 states that a dispensation is never given from the impediment of consanguinity in the direct line or in the second degree of the collateral line. Consanguinity is only an impediment of ecclesiastical law for the case of third and fourth degree collateral lines.

Because a blood relationship is permanent, the impediment never ceases.¹³¹ While the impediment of consanguinity in any degree of the direct line and the second degree of the collateral line is never dispensed by any ecclesiastical authority, the impediment of consanguinity in the third and fourth degree of the collateral line can be dispensed by the local ordinary.¹³²

Since the aversion to consanguineous marriages has its roots in the near universal incest taboo and the resultant deleterious effects of tolerating sexual relations between close relatives for the stability and harmony of the family, Thai civil law's view on this matter is the same as other societies:

Section 1450. A marriage cannot take place if the man and woman are blood relations in the direct ascendant or descendant line, or brother or sister of full or half blood. The said relationship shall be in accordance with blood relation without regard to its legitimacy.

¹³⁰ See DOYLE, "Marriage (cc. 1055–1165)," 771–772; see also HUELS, *The Pastoral Companion*, 248.

¹³¹ See *ibid.*, 772.

¹³² See F.X. WAHL, The Matrimonial Impediments of Consanguinity and Affinity: A Historical Synopsis and Commentary, JCD thesis, in *Canon Law Studies*, no. 90, Washington, DC, Catholic University of America, 1934, 1–53; E. GARCÍA, "Consanguinity as an Impediment," in *BEF*, 73 (1997), 464–466; J. GONZÁLEZ, "Marriage between Cousins," in *BEF*, 76 (2000), 274–275; J.D.G. BARBER, "Anotaciones sobre la historia del impedimento de consanguinidad," in *Apollinaris*, 82 (2009), 647–677.

In Thailand, therefore, marriage is forbidden between persons who are related within the prohibited degree of consanguinity. A marriage cannot take place if the man and woman are blood relatives in the direct ascendant or descendant line, or brother or sister of full or half blood, e.g., marriage between brother and sister, grandson and grandmother, grandfather and granddaughter.¹³³

3.1.2.10 – Affinity

Affinity is the legal relationship which arises between a person and their spouse's blood relatives.¹³⁴

Canon 1092. Affinity in the direct line in any degree invalidates a marriage.¹³⁵

Affinity arises from a valid marriage, even if it is not consummated. The impediment of affinity exists between the husband and the blood relatives in the direct line of the wife, and between the wife and the blood relatives in the direct line of the husband.¹³⁶

The foundation of c. 1092 is based on the fact that the marital relationship not only joins each spouse together, but also brings them into the other's family. The purpose of the impediment of affinity is to defend the family and avoid conditions which may seem to promote marriage between family members.¹³⁷

Affinity arises from any valid marriage, but marriages between non-Catholics are not affected by the impediment of affinity because it is only ecclesiastical law. However,

¹³³ See STACY, *Elements of Thai Civil Law*, 156.

¹³⁴ See DOYLE, "Marriage (cc. 1055–1165)," 773.

¹³⁵ Canon 1092: "Affinitas in linea recta dirimit matrimonium in quolibet gradu."

¹³⁶ Cf. c. 109, §1: "Affinity arises from a valid marriage, even if not consummated, and exists between a man and the blood relatives of the woman and between the woman and the blood relatives of the man." See also WAHL, *The Matrimonial Impediments of Consanguinity and Affinity*, 57–92.

¹³⁷ See BAÑARES, "Individual Diriment Impediments," 1208.

if either one or both of the parties in a marriage are Catholics or have been received into the Catholic Church, the impediment of affinity arises.¹³⁸ For example, a man cannot marry his wife's mother because she is related by affinity to him in the first degree of the direct line, and a woman cannot marry her husband's father.¹³⁹

Thai civil law states that only a marriage between blood relations in the direct ascendant or descendant line, or brother or sister of full or half blood is forbidden.¹⁴⁰ Therefore, affinity is not a condition which forbids marriage in Thailand. Consequently, a marriage between those related to one another by any degree of affinity in either line is valid.

3.1.2.11 – Public Propriety

The impediment of public propriety is based on a more or less stable relationship between a man and a woman that is not a valid marriage:¹⁴¹

Canon 1093. The impediment of public propriety arises from an invalid marriage after the establishment of common life or from notorious or public concubinage. It nullifies marriage in the first degree of the direct line between the man and blood relatives of the woman, and vice versa.¹⁴²

¹³⁸ See HUELS, *The Pastoral Companion*, 249; see also DOYLE, "Marriage (cc. 1055–1165)," 773.

¹³⁹ See BEAL, "Diriment Impediments in General (cc. 1073–1082)," 1292–1293; see also B.T. MULLADY, "Marriage of Deceased Spouse's Sibling," in *Homiletic and Pastoral Review*, 12 (2006), 67–68; P. PELLEGRINO, "L' Impedimento di affinità nel matrimonio canonico (CIC, can. 1092; CCEO, can. 809, §1–2)," in *Ius canonicum*, 43 (2003), 233–248.

¹⁴⁰ Cf. section 1450 of the Civil and Commercial Code.

¹⁴¹ See DOYLE, "Marriage (cc. 1055–1165)," 773.

¹⁴² Canon 1093: "Impedimentum publicae honestatis oritur ex matrimonio invalido post instauratam vitam communem aut ex notorio vel publico concubinato; et nuptias dirimit in primo gradu lineae rectae inter virum et consanguineas mulieris, ac vice versa."

The foundation and objective of the impediment of public propriety are the same as the impediment of affinity (c. 1092), the intention of legislator is the protection of moral principles and the avoidance of possible scandal.¹⁴³

An invalid marriage includes a relationship which has all the appearances of marriage, but in fact is invalid for some reason. When the couple begins to live together the impediment begins. Concubinage occurs when a man and a woman cohabit in order to habitually have sexual intercourse. For the impediment to arise, the concubinage must be notorious or public; for example, it is well known to the whole community. Even if the invalid marriage has been declared as such or concubinage has been dissolved, the impediment is perpetual, and must be dispensed by the competent authority.¹⁴⁴

The impediment prohibits a man from marrying the woman's mother or daughter, and likewise prohibits a woman from marrying the man's father or son.¹⁴⁵

Thai civil law has no such concept of forbidding marriage based on public propriety. Even though the community may find a particular marriage unacceptable on moral grounds, it is still permitted by law.

3.1.2.12 – Adoption

Adoption is a legal relationship between persons that arises when a person receives as his or her child one who is not so by nature.¹⁴⁶

¹⁴³ See BAÑARES, "Individual Diriment Impediments," 1211.

¹⁴⁴ See HUELS, *The Pastoral Companion*, 250–251.

¹⁴⁵ See also J.F. GALLAGHER, *The Matrimonial Impediment of Public Propriety: A Historical Synopsis and a Canonical Commentary*, JCD thesis, in *Canon Law Studies*, no. 304, Washington, DC, Catholic University of America, 1952; R. AHLERS, "Überlegungen zum Ehehindernis der öffentlichen Ehrbarkeit," in *De processibus matrimonialibus*, 11 (2004), 13–22.

¹⁴⁶ See DOYLE, "Marriage (cc. 1055–1165)," 774.

Canon 1094. Those who are related in the direct line or in the second degree of the collateral line by a legal relationship arising from adoption cannot contract marriage together validly.¹⁴⁷

Canon 1094 states that for cases dealing with the act of adoption, canon law relies on civil law to determine the legality of the adoption. Therefore, the impediment arises only if the adoption is legal according to the civil law of the jurisdiction. If the act of adoption is illegal according to civil law no impediment would exist. The applicable civil law is determined by the jurisdiction where the marriage is to be contracted. Therefore, if the adoption is recognized as legal by the civil law of the marriage jurisdiction, then the canonical impediment exists; otherwise an impediment of adoption does not exist, even if another civil jurisdiction has recognized the adoption as legal.¹⁴⁸

The impediment of adoption exists in all degrees of the direct line. For example, an adopted daughter could not marry her adoptive father. This impediment also extends to the second degree of the collateral line. An adopted son could not marry a natural or an adopted daughter of his adoptive parents. They become brother and sister by law, even though they have no blood relationship.¹⁴⁹ Hence, the impediment of adoption is to be interpreted in the strict sense, which means it arises from adoption and not from similar relationships such as being or having a guardian or foster parent.¹⁵⁰ If the process of adoption is terminated or reversed according to the norms of civil law, then the ecclesiastical impediment of adoption ceases.¹⁵¹

¹⁴⁷ Canon 1094: “Matrimonium inter se valide contrahere nequeunt qui cognatione legali ex adoptione orta, in linea recta aut in secundo gradu lineae collateralis, coniuncti sunt.”

¹⁴⁸ See HUELS, *The Pastoral Companion*, 251.

¹⁴⁹ See *ibid.*

¹⁵⁰ See BAÑARES, “Individual Diriment Impediments,” 1215.

¹⁵¹ See M. WOJNAR, “Legal Relationship and Guardianship as Matrimonial Impediments,” in *J*, 30 (1970), 343–355, 456–497; E. GARCIA, “Impediment of Legal Adoption,” in *BEF*, 70 (1994), 669–671.

Thai civil law applies similar principles to adoption to the legal relationship that arises from the marriage would impede the adopting father (mother) from having a valid marriage with an adopted daughter (son):

Section 1451. An adopter cannot marry the adopted.

However, if the marriage takes place between an adopter and the adoptee, this marriage will result in dissolution of the adoption.¹⁵² Therefore, a marriage between the adopter and the adopted child revokes the contract of their adoption,¹⁵³ provided both declared publicly their consent before a registration officer.¹⁵⁴

3.2 – The Church’s Teaching on Disparity of Worship Marriage and Its Assimilation in Thailand

The statistics on marriage from the CBCT point out that marriages between Catholics and Buddhists in Thailand have been increasing. They show that many Thai Catholics need to be dispensed from the impediment of disparity of worship in order to get married validly in the Church. While the Church respects the natural right of every person to marry, a Catholic who prepares to enter into such a marriage is obliged to follow the Church’s discipline on this matter. Consequently, the local Church has a special duty to extend pastoral care to the faithful contemplating a marriage with an unbaptized person, so they can fully comprehend their situation and make informed choices to guarantee the canonical validity of their marriage.

¹⁵² Cf. section 1598/32 of the Civil and Commercial Code: “The adoption will become dissolved if the marriage is made in contravention of Section 1451.” See STACY, *General Principle of Thai Private Law*, 240.

¹⁵³ See STACY, *General Principle of Thai Private Law*, 240.

¹⁵⁴ See *ibid.*, 222.

While this section will explain Catholic teaching and the 1983 Code discipline on mixed marriages, it will focus especially on the requirements and duties of Catholics and the local Church in the context of a marriage between a Catholic and a Buddhist (non-baptized) person.

3.2.1 – Instruction on Mixed Marriages *Matrimonii sacramentum*

In the 1917 Code, a mixed marriage meant a marriage where one party was Catholic and the other a baptized non-Catholic. This marriage was prohibited by law. However, a mixed religion marriage for which a dispensation had not been granted was illicit, but still valid (see *CIC/17*, cc. 1060–1064).¹⁵⁵

The 1917 Code prohibited mixed marriages:

CIC/17, c. 1060. Most severely does the Church prohibit everywhere that marriage be entered by two baptized persons, one of whom is Catholic, and other belonging to a heretical or schismatic sect; indeed, if there is a danger of perversion to the Catholic spouse and children, that marriage is forbidden even by divine law.¹⁵⁶

The Code also stated that the danger to the faith of the Catholic spouse that exists in mixed marriages should be removed.¹⁵⁷

On 18 March 1966, the Sacred Congregation for the Doctrine of the Faith issued the instruction *Matrimonii sacramentum*.¹⁵⁸ The purpose of *MS* was to state the teaching

¹⁵⁵ See L.D. PIVONKA, “Ecumenical or Mixed Marriage in the New Code of Canon Law,” in *J*, 43 (1983), 105.

¹⁵⁶ *CIC/17*, c. 1060: “Severissime Ecclesia ubique prohibet ne matrimonium ineatur inter duas personas baptizatas, quarum altera sit catholica, altera vero sectae haereticae seu schismatica adscripta; quod si adsit perversionis periculum coniugis catholici et prolis, coniugium ipsa etiam lege divina vetatur.”

¹⁵⁷ See *CIC/17*, c. 1061, §1: “The Church does not dispense from the impediment of mixed religion, unless: 1° Just and grave causes so urge; 2° The non-Catholic spouse gives a precaution to remove the danger of perversion from the Catholic spouse, and from both spouses (there is a promise) that all children will be baptized only Catholic and so educated.”

¹⁵⁸ SACRED CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Instruction on Mixed Marriages Matrimonii sacramentum*, 16 March 1966 (=MS), in AAS, 58 (1966), 235–239, English translation in *FLANNERY1*, 474–478.

and principles of the Church relating to the legislation on mixed marriages, including the requirements to be fulfilled by both the Catholic party and the non-Catholic.¹⁵⁹

The first issue indicated in *MS* was that measures must be taken to protect and safeguard the principle that Catholics should marry Catholics.¹⁶⁰ The basic assumption was that Christian marriage is a sacred sign of the intimate union which exists between Christ and the Church. *MS* pointed out that the full and perfect harmony of the spouses with regard to religion is important for their life in common. This truth was expressed in the encyclical letter *Casti connubii* of Pope Pius XI, which maintained that differences in religion might lead to the breaking of the bond of love between husband and wife.¹⁶¹

The instruction referred to two impediments, of mixed religion and disparity of cult,¹⁶² which prohibit marriage between a Catholic and someone from another religious faith. The impedient impediment of mixed religion forbade the marriage between a Catholic and a baptized non-Catholic; the diriment impediment of disparity of worship forbade the marriage between a Catholic and a non-baptized person.

The pastor was therefore, to instruct the Catholic party and ensure that they understand the meaning and value of (the sacrament) of marriage. He was to warn the Catholic party of dangers and difficulties in a mixed marriage with a non-Catholic,

¹⁵⁹ See *MS*, in *AAS*, 58 (1966), 235, *FLANNERY1*, 474. See also PIVONKA, "Ecumenical or Mixed Marriage in the New Code of Canon Law," 108; J. MADDEN, "Mixed Marriages," in *Australian Catholic Record*, 43 (1966), 153.

¹⁶⁰ See *MS*, in *AAS*, 58 (1966), 235, *FLANNERY1*, 474.

¹⁶¹ See *Casti connubii*, no. 84, in *AAS*, 22 (1930), 571–572, CARLEN (ed.), *The Papal Encyclicals 1903–1939*, 404. See also MADDEN, "Mixed Marriages," 153–154.

¹⁶² "The Church's discipline [...] takes the form of two impediments to marriage: mixed religion and disparity of worship. The first of these forbids marriage between a Catholic and a baptized non-Catholic, while not taking from the validity of such a marriage. The second renders invalid a marriage between a Catholic and non-baptized person [...]" (*MS*, in *AAS*, 58 [1966], 235, *FLANNERY1*, 474).

especially when the other party was not baptized.¹⁶³ Catholics, especially the young, were to be strongly exhorted to marry a Catholic.¹⁶⁴

The Church desires to protect her children from dangers of falling away from the faith after marrying a non-Catholic. Owing to the fact that Catholic teaching on the nature and essential properties of marriage is different from non-Catholic marriage traditions, the Church wishes to stress the indissolubility of marriage. Indeed, many non-Catholics believe wrongly that a civil divorce ends the marriage bond and leaves the parties free to marry another. Therefore, a Catholic who desires to marry a non-Catholic person must have been carefully instructed about the nature and properties of marriage, about the important obligations of married people, and about the dangers to be avoided.¹⁶⁵

The second principle that *MS* dealt with is fostering a spirit of ecumenism which was sanctioned and recommended by the Second Vatican Council. The ecclesiastical legislation on mixed marriages is not aimed at offending but rather respecting the non-Catholic party.¹⁶⁶

As a whole, *MS* confirmed the constant teaching of the Catholic Church with regard to mixed marriages. The instruction stated that the matrimonial impediments, of mixed religion and disparity of worship would remain in force before any new

¹⁶³ For reasons of convenience, unless the strict canonical sense of the term is required by a context, the term “mixed marriage” will be used in its broader sense, a marriage between a Catholic and a non-Catholic, whether baptized or not (see BEAL, “Mixed Marriages [cc. 1124–1129],” 1341–1342).

¹⁶⁴ See *MS*, in AAS, 58 (1966), 235, *FLANNERY1*, 474–475.

¹⁶⁵ See *ibid.*, in AAS, 58 (1966), 235, *FLANNERY1*, 475.

¹⁶⁶ See *ibid.*, in AAS, 58 (1966), 237, *FLANNERY1*, 476. See also C.S. BLACK, *An Ecumenical Study of the Pastoral Care of Mixed Marriages in the Light of “Matrimonia mixta,”* JCD thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 1979, 19.

regulations are introduced.¹⁶⁷ However, in virtue of the faculty granted in the Apostolic letter *Pastorale munus*,¹⁶⁸ these impediments could be dispensed by local ordinaries for grave causes and with due observance of the requirements of law.¹⁶⁹

There were, however, significant changes in the ecclesiastical discipline regarding mixed marriages introduced by the new instruction¹⁷⁰ which must be kept in mind. First of all, the norms of *MS* emphasized the need to remove the danger to the Catholic party, and the necessity to provide a Catholic education for the children.¹⁷¹ In this regard, *MS* demanded that the local Ordinary and the proper pastor of the Catholic party remind the Catholic party about the obligation to remove the danger to his or her practice of the Catholic faith and to provide a Catholic education for children to be born of this marriage. The Catholic party had to guarantee the fulfillment of this obligation.¹⁷²

Similarly, the non-Catholic party was to be informed of the unity and indissolubility of marriage. Likewise, the obligations of the Catholic spouse to protect, preserve, and practice the Catholic faith and to bring up the children as Catholics were to be explained to the non-Catholic party. This person should have been invited to promise sincerely and openly that he or she will not impede the obligations of the Catholic party.

¹⁶⁷ See S. PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches and the Particular Law of the Syro-Malabar Church*, JCD thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 2008, 32.

¹⁶⁸ PAUL VI, Apostolic Letter *Motu Proprio* on the Powers and Privileges Granted to Bishops, *Pastorale munus*, 30 November 1963, in AAS, 56 (1964), 5–12, English translation in *CLD*, vol. 6, 370–378.

¹⁶⁹ See *MS*, in AAS, 58 (1966), 236–237, *FLANNERY1*, 476; see also BLACK, *An Ecumenical Study of the Pastoral Care of Mixed Marriages*,” 20.

¹⁷⁰ The instruction, published on 18 March 1966 was included in the promulgated acts and went into force on 19 May 1966. It had, therefore, at least in part, the legislative character: “The following provisions have been established, by the authority of Pope Paul VI, to be inserted into the revised code of Canon Law if they stand the test of experience” (*MS*, in AAS, 58 [1966], 237, in *FLANNERY1*, 476).

¹⁷¹ See *MS*, part I, no. 1, in AAS, 58 (1966), 237, *FLANNERY1*, 476.

¹⁷² See *ibid.*, part I, no. 2, in AAS, 58 (1966), 237, *FLANNERY1*, 476.

If this could not be done without damaging the non-Catholic's conscience, the local ordinary was to consult the Holy See.¹⁷³

Additionally, the instruction prohibited any change in the canonical form and the liturgical celebration of a mixed marriage.¹⁷⁴ Absolutely prohibited was the celebration of a marriage performed by a Catholic priest and a non-Catholic minister with his own rite, within the same ceremony. Although *MS* allowed non-Catholic ministers to instruct the couple and to give a blessing outside the actual nuptial rite, though only with the approval of the local Ordinary, the instruction stated that the Catholic rite was to be completed without interruption.¹⁷⁵

Finally, excommunication as per c. 2319, §1, 1° of the 1917 Code¹⁷⁶ was abrogated for those who celebrated marriage before non-Catholic ministers. However, such marriages still needed to be validated because the excommunication was linked to the *communicatio in sacris* and only that provision was lifted.¹⁷⁷ The instruction concluded with an exhortation to all who teach Christian doctrine, especially pastors, to explain that the regulations were changed so that the laws of the Church conform to present-day conditions and promote good relationship with members of other ecclesial communities.¹⁷⁸

¹⁷³ See *ibid.*, part I, no. 3, in AAS, 58 (1966), 237, *FLANNERY1*, 476; see also PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 34.

¹⁷⁴ See *MS*, part III and IV, in AAS, 58 (1966), 235, *FLANNERY1*, 477.

¹⁷⁵ See *ibid.*, part V, in AAS, 58 (1966), 235, *FLANNERY1*, 477–478; see also PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 33–34.

¹⁷⁶ See *CIC/17*, c. 2319, §1: “Those Catholics fall under automatic excommunication reserved to the Ordinary who: 1° Enter marriage in the presence of a non-Catholic minister against the prescription of canon 1063, §1 [...]”

¹⁷⁷ See *MS*, part VII, in AAS, 58 (1966), 235, *FLANNERY1*, 478; see also PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 34.

¹⁷⁸ See *MS*, part VII, in AAS, 58 (1966), 235, *FLANNERY1*, 478; see also MADDEN, “Mixed Marriages,” 161.

Matrimonii sacramentum was a synthesis of the old law and the teaching of the Second Vatican Council. It reflected a development of legislative provisions for mixed marriages while not disconnecting completely from the past. *MS* reaffirmed that the canonical form of marriage is needed for validity, and that the power to dispense from that canonical form was reserved to the Holy See. Therefore, although *MS* revised the law on mixed marriages contained in the 1917 Code, the other provisions of the Code remained in effect.¹⁷⁹

3.2.2 – Apostolic Letter *Motu Proprio* on Mixed Marriages *Matrimonia mixta*

The Fathers of the Second Vatican Council requested the Holy See provide applications of conciliar teaching on mixed marriages. After discussions at the First Ordinary General Synod of Bishops in 1967,¹⁸⁰ and after consulting the episcopal conferences, the Holy See prepared a response to that request.¹⁸¹

Afterward, on 19 March 1968, the Pope appointed a commission for implementing the recommendations from the Synod on mixed marriage legislation. This commission developed the norms in light of the conciliar teaching and discussions of the Synod of Bishops of 1967. On 31 March 1970, Pope Paul VI issued the apostolic letter *motu proprio Matrimonia mixta*¹⁸² which determined the norms for mixed marriages. It

¹⁷⁹ See PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 34–35.

¹⁸⁰ See *Argumenta de quibus disceptabitur in primo generali coetu Synodi Episcoporum*, Pars altera, Typis polyglottis Vaticanis, 1967, 27–37.

¹⁸¹ See A. PRIHARTANA, *Ministry of the Education of Faith in the Families of Disparity of Cult Marriages*, JCD thesis, Rome, Pontificia Universitas Lateranensis, 2005, 33.

¹⁸² PAUL VI, *Apostolic Letter Motu Proprio on Mixed Marriages Matrimonia mixta*, 31 March 1970 (=MM), in AAS, 62 (1970), 257–263, English translation in *FLANNERY*1, 508–514.

contains important theological, ecumenical, and pastoral principles of universal relevance for the Latin and Eastern Catholic Churches.¹⁸³

Pope Paul VI issued the motu proprio *Matrimonia mixta* (=MM) as the legislation updating the norms governing mixed marriages in the 1917 Code. The Pope observed that increased communication between different religions had led to an increase in the number of mixed marriages.¹⁸⁴ MM formulates new norms for the ecclesiastical discipline on mixed marriages, marriages in which one party is Catholic and other non-Catholic, including non-baptized persons. Following the mind of the Second Vatican Council, especially in the Decree on Ecumenism¹⁸⁵ and the Declaration on Religious Liberty,¹⁸⁶ MM states that, “[n]either in doctrine or in law does the Church place on the same level a marriage between a Catholic and a baptized non-Catholic, and one between a Catholic and an unbaptized person.”¹⁸⁷ The reasoning provided is that, “[a]s the Second Vatican Council declared, people who, though they are not Catholics ‘believe in Christ and have been properly baptized are brought into a certain, though imperfect communion with the Catholic Church’.”¹⁸⁸ A definite communion of spiritual benefits exists in the marriages between baptized persons. This aspect had not been mentioned in the previous legislation.¹⁸⁹

¹⁸³ See PAYYAPPILLY, Mixed-Marriage in the Code of Canons of the Eastern Churches, 41.

¹⁸⁴ See MM, in AAS, 62 (1970), 257, in FLANNERY1, 508.

¹⁸⁵ SECOND VATICAN COUNCIL, Decree on Ecumenism *Unitatis redintegratio*, 21 November 1964, in AAS, 57 (1965), 90–112, English translation in FLANNERY1, 408–424.

¹⁸⁶ SECOND VATICAN COUNCIL, Declaration on Religious Liberty *Dignitatis humanae*, 7 December 1965, in AAS, 58 (1966), 929–946, English translation in FLANNERY1, 799–812.

¹⁸⁷ MM, in AAS, 62 (1970), 258, FLANNERY1, 509.

¹⁸⁸ Ibid.

¹⁸⁹ See PIVONKA, “Ecumenical or Mixed Marriage in the New Code of Canon Law,” 110–111.

In his *motu proprio*, Pope Paul VI reiterated, using pastoral and ecumenical reasons, the principle that the Church should prevent Catholics from entering mixed marriages. Focusing on the relationship itself and not directly on the faith of the Catholic party, this rationale is more in harmony with the view of marriage as explained in *Gaudium et spes*, nos. 48–52.¹⁹⁰ The main reason for discouraging mixed marriages is that mixed marriages make the agreement of minds and full communion of life, which is characteristic of Christian marriage, more difficult:

There are many difficulties inherent in a mixed marriage, since a certain division is introduced into the living cell of the Church, as the Christian family is rightly called, and in the family itself the fulfillment of the gospel teachings is more difficult because of diversities in matters of religion, especially with regard to those matters which concern Christian worship and the education of the children.¹⁹¹

Matrimonia mixta states that the duty to educate the children is a principle grounded in natural law and obliges both parents to accept this duty. For this reason, the Catholic Church shows proper respect to the non-Catholic party in a mixed marriage; he or she must also be concerned about the education of the children. The respect of this obligation provides a basis for cooperation in the difficult situation where the Catholic party's effort to do all in his or her power to have their children baptized and educated in the Catholic faith have been exhausted.¹⁹²

Firstly, the norms of *MM*¹⁹³ explained that mixed religion was to be maintained only as an impedient impediment while disparity of worship continued as an invalidating

¹⁹⁰ Cf. *GS*, no. 48–50, in *AAS*, 58 (1966), 1067–1074, *FLANNERY1*, 950–957. See PIVONKA, “Ecumenical or Mixed Marriage in the New Code of Canon Law,” 111.

¹⁹¹ *MM*, in *AAS*, 62 (1970), 257–258, *FLANNERY1*, 508.

¹⁹² See PIVONKA, “Ecumenical or Mixed Marriage in the New Code of Canon Law,” 113.

¹⁹³ The norms of *MM* did not concern Eastern Catholics contracting marriage with baptized non-Catholics or with unbaptized persons. They were regulated by special legislation, see SECOND VATICAN COUNCIL, Decree on the Catholic Eastern Churches *Orientalium Ecclesiarum*, 21 November 1964, no. 18, in *AAS*, 57 (1965), 82, English translation in *FLANNERY1*, 441–451; SACRED CONGREGATION FOR THE EASTERN CHURCHES, Decree *Crescens matrimoniorum*, in *AAS*, 59 (1967), 165–166.

impediment, and that the Church will dispense from these impediments for just cause. The Catholic party, who requests to be dispensed from these impediments, must declare the intention to remove all dangers that might lead to a loss of faith and must also make a sincere promise to do all in his or her power to see that the children born of this marriage are baptized and educated in the Catholic Church.¹⁹⁴

Secondly, *MM* stressed that according to the theology of marriage, a marriage between a Catholic and a baptized non-Catholic is a sacramental one, whereas a marriage between a Catholic and a non-baptized person is not. The *motu proprio* insisted that a person has a natural right to marry and that the divine law principle has to be observed.¹⁹⁵

Thirdly, the non-Catholic party was to be informed in advance about the obligations of the Catholic spouse so that he or she fully understands these obligations. The ends and essential properties of marriage need to be explained to both parties to ensure that both comprehend them and do not exclude any of them.¹⁹⁶

Fourthly, the episcopal conferences were to determine how to make the promises and declarations of the spouses:¹⁹⁷ a) the process in which the promises and declarations are to be made; b) the proof of the declaration in the external forum; c) the way of

¹⁹⁴ See *MM*, nos. 1–4, in *AAS*, 62 (1970), 260–261, *FLANNERY1*, 511–512; see also PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 41–42, BLACK, *An Ecumenical Study of the Pastoral Care of Mixed Marriages*,” 29.

¹⁹⁵ See *MM* in *AAS*, 62 (1970), 258–259, *FLANNERY1*, 509. The decree states that “[t]he faithful must therefore be taught that, although the Church somewhat relaxes ecclesiastical discipline in particular cases, she can never remove the obligation of the Catholic party, which by divine law, namely the plan of salvation instituted by Christ, is imposed according to the various situations” (*MM*, in *AAS*, 62 [1970], 259–261, *FLANNERY1*, 510). See also PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 42.

¹⁹⁶ See *MM*, nos. 5–6, in *AAS*, 62 (1970), 261, *FLANNERY1*, 512; see also PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 42, BLACK, *An Ecumenical Study of the Pastoral Care of Mixed Marriages*,” 32–34.

¹⁹⁷ *MM* stated, in no. 12, that the episcopal conferences needed to inform the Apostolic See of all their decisions concerning mixed marriage. See *AAS*, 62 (1970), 262, *FLANNERY1*, 513.

informing the non-Catholic party about the promises made by the Catholic party; and d) other suitable requirements to be included.¹⁹⁸

Fifthly, *MM* insisted that the canonical form needs to be observed for a mixed marriage to be considered valid. If there were serious difficulties for observing the canonical form, the local ordinary had the power to dispense them. The episcopal conferences were to enact norms to maintain uniformity in granting such dispensations within their territory, and to ensure that the public form of the marriage ceremony always be followed.¹⁹⁹

Finally, while all marriages that are validly contracted should be written in Church records, the episcopal conferences should determine the form for registering those marriages which are given a dispensation from canonical form. Catholic pastors should, therefore, cooperate with the non-Catholic ministers in view of proper recording these marriages in parochial registers.²⁰⁰

The liturgical form of the celebration of a mixed marriage according to the Roman ritual is found in the *Rite of Celebration of Marriage*,²⁰¹ whether the marriage was between a Catholic and a baptized non-Catholic or between a Catholic and a non-baptized person. However, the local Ordinary, respecting the norms of universal law on the reception of Holy Communion, could permit a celebration of a marriage between a

¹⁹⁸ See *MM*, no. 7, in *AAS*, 62 (1970), 261, *FLANNERY1*, 512; see also PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 42–43; J.M. MAKOTHAKAT, “The Directories of Episcopal Conferences Implementing *Matrimonia mixta*,” in *Studia canonica*, 13 (1979), 303–336.

¹⁹⁹ See *MM*, nos. 8–9, in *AAS*, 62 (1970), 261, *FLANNERY1*, 512. See also BLACK, *An Ecumenical Study of the Pastoral Care of Mixed Marriages*, 35.

²⁰⁰ See *MM*, no. 10, in *AAS*, 62 (1970), 261–262, *FLANNERY1*, 513.

²⁰¹ See *The Rites of The Catholic Church*, New York, Pueblo Publishing Co., 1976, 531–570.

Catholic and a baptized non-Catholic according to the rite for the celebration of marriage within Mass.²⁰²

The *motu proprio* prohibited the joint celebration of marriage before a Catholic priest or a deacon and a non-Catholic minister. Additionally, *MM* forbade the celebration of another religious marriage ceremony, either before or after the Catholic celebration, for the purpose of exchanging or renewing matrimonial consent.²⁰³

The *motu proprio* directed the local ordinaries and pastors to provide spiritual assistance to the Catholic party and children born of mixed marriages in fulfilling their duties. The local ordinaries and pastors were to encourage the Catholic party “to keep ever in mind the divine gift of the Catholic faith and to bear witness to it with gentleness and reverence, and with a clear conscience.”²⁰⁴ They also should support the couple to live in the unity of their conjugal and family life, based on their shared Christian baptism. Finally, pastors should build sincere relationships with ministers of other religious communities.²⁰⁵

The excommunication referenced to in c. 2319 of the 1917 Code²⁰⁶ regarding mixed marriage was abrogated by *MM* with retroactive effect. The local ordinary was given the authority to sanate an invalid mixed marriage, which was normally reserved to

²⁰² See *MM*, no. 11, in AAS, 62 (1970), 262, *FLANNERY1*, 513.

²⁰³ See *ibid.*, no. 13, in AAS, 62 (1970), 262, *FLANNERY1*, 513; see also PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 43–44.

²⁰⁴ *MM*, no. 14, in AAS, 62 (1970), 262, *FLANNERY1*, 513.

²⁰⁵ See *ibid.*, in AAS, 62 (1970), 262, *FLANNERY1*, 513–514.

²⁰⁶ Cf. *CIC/17*, c. 2319, §1: “Those Catholics fall under automatic excommunication reserved to the Ordinary who: 1° Enter marriage in the presence of a non-Catholic minister against the prescription of canon 1063, §1; 2° Enter marriage with the explicit or implicit agreement that all or any of the children will be educated outside of the Catholic Church; 3° Knowingly presume to offer their children to non-Catholic ministers for baptism; 4° Being parents or holding the place of parents, knowingly hand their charges over for non-Catholic education or formation. §2. Those in §1, nos. 2–4, are suspected of heresy.”

the Holy See in virtue of c. 1141 of the 1917 Code,²⁰⁷ if the conditions concerning the promises have been fulfilled and other requirements of the law observed. Finally, *MM* stated that if there was any particular difficulty or doubt regarding the application of its norms, recourse was to be made to the Holy See.²⁰⁸

The apostolic letter *Matrimonia mixta* was meant to promote an ecumenical approach to mixed marriages by respecting the religious liberty and conscience of the non-Catholic party. The letter stressed, however, the clear distinction between a mixed marriage between a Catholic and a baptized non-Catholic and one between a Catholic and a non-baptized person. The motu proprio clearly acknowledged that a valid marriage of two baptized persons is a sacramental marriage.²⁰⁹

3.3 – Marriage between a Catholic and a Non-Baptized (Buddhist) Person

Pope Paul VI indicated that the Church has the responsibility and duty to provide special pastoral care for couples in mixed marriages,²¹⁰ especially to safeguard the Catholic party's faith and his or her right and duty to baptize and educate children in the Catholic faith. On the other hand, Pope John Paul II stressed in his apostolic exhortation *Familiaris consortio*, that the conferences of bishops and individual bishops need to ensure that mixed marriages have a proper safeguard for preserving the free exercise of the faith by the Catholic party.²¹¹

²⁰⁷ Cf. *CIC/17*, c. 1141: "Radical sanation can be granted only by the Apostolic See." See also BLACK, *An Ecumenical Study of the Pastoral Care of Mixed Marriages*, 37.

²⁰⁸ See *MM*, nos. 15–17, in *AAS*, 62 (1970), 262–263, *FLANNERY1*, 514; see also PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 44–45.

²⁰⁹ See PAYYAPPILLY, *Mixed-Marriage in the Code of Canons of the Eastern Churches*, 45.

²¹⁰ See *MM*, in *AAS*, 62 (1970), 257, *FLANNERY1*, 508.

²¹¹ See *FC*, no. 78, in *AAS*, 74 (1982), 169–170, *FLANNERY2*, 815–816.

The 1983 Code explains that a mixed marriage, in the strict sense, is a marriage between two baptized Christians, a Catholic and a baptized non-Catholic. This type of marriage requires permission of the competent authority for the liceity of the celebration:

Canon 1124. Marriage between two baptized persons, one of whom was baptized in the Catholic Church or received into it after baptism, and the other a member of a Church or ecclesiastical community not in full communion with the Catholic Church, cannot be celebrated without the express permission of the competent authority.²¹²

In the broad sense, however, the term “mixed marriage” is understood as including a marriage between a Catholic and a non-baptized person; such a marriage requires a dispensation from the impediment of disparity of worship for its validity.²¹³

In Thailand, the majority of Catholic marriages are mixed marriages, between a Catholic and a non-baptized (Buddhist) person, entered into with the dispensation from the diriment impediment of disparity of worship.

3.3.1 – Dispensation Needed to Marry a Non-Baptized Person

The 1983 Code states the principle that ecclesiastical laws bind only those who were baptized in the Catholic Church or received into it.²¹⁴ Furthermore, the 1983 Code indicates that a Catholic marriage is governed by divine law and canon law even if only one party is Catholic.²¹⁵ In particular, while a member of the faithful has the fundamental

²¹² Canon 1124: “Matrimonium inter duas personas baptizatas, quarum altera sit in Ecclesia catholica baptizata vel in eadem post baptismum recepta, altera vero Ecclesiae vel communitati ecclesiali plenam communionem cum ecclesia catholica non habenti adscripta, sine expressa auctoritatis competentis licentia prohibitum est.”

²¹³ See HUELS, *The Pastoral Companion*, 220; see also J. ASANBE, “Mixed Marriages in the Light of Ecumenism,” in *Vidyajyoti*, 69 (2005), 527.

²¹⁴ See c. 11: “Merely ecclesiastical laws bind those who have been baptized in the Catholic Church or received into it, possess the sufficient use of reason, and, unless the law expressly provides otherwise, have completed seven years of age.”

²¹⁵ See c. 1059: “Even if only one party is Catholic, the marriage of Catholics is governed not only by divine law but also by canon law, without prejudice to the competence of civil authority concerning the merely civil effects of the same marriage.”

right to be married (*ius connubii*) (c. 1058), the Catholic party also has the duty to protect the good of the faith and to teach it to his or her children.²¹⁶

The 1917 Code differentiated between mixed marriage and marriage with the impediment of disparity of worship, but both were treated similarly in the matter of prerequisites. Thus, the same conditions were required for getting permission or dispensation from either impediment:²¹⁷

CIC/17, c. 1071. Those things that are prescribed for mixed marriages in Canons 1060–1064 must also be applied to those marriages that are barred due to the impediment of disparity of cult.²¹⁸

A marriage of a Catholic with a non-baptized person potentially endangers the faith of the Catholic party and the education in the Catholic faith of the children born of such a marriage. Canon 1070 of the 1917 Code prohibited marriage between a Catholic and a non-baptized person:

CIC/17, c. 1070, §1. That marriage is null that is contracted between a non-baptized person and a person baptized in the Catholic Church or converted to her from heresy or schism.

§2. If a party at the time of contracting marriage was commonly considered baptized, or there is doubt about baptism, the validity of the marriage is to be upheld according to the norm of Canon 1014 until it is certainly proved that the one party was baptized and the other was not baptized.²¹⁹

Because of the principle of religious freedom and the matter-of-fact acceptance of other beliefs, the present Code does not include the expression that if there is a danger of

²¹⁶ See J.I. BAÑARES, “Individual Diriment Impediments,” in *Exegetical Comm*, vol. 3, 1183.

²¹⁷ See PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 11.

²¹⁸ *CIC/17*, c. 1071: “Quae de mixtis nuptiis in canonibus 1060–1064 praescripta sunt, applicari quoque debent matrimoniis quibus obstat impedimentum disparitatis cultus.”

²¹⁹ *CIC/17*, c. 1070, §1: “Nullum est matrimonium contractum a persona non baptizata cum persona non baptizata cum persona baptizata in Ecclesia catholica vel a eadem ex haeresi aut schismate conversa.” §2: “Si pars tempore contracti matrimonii tanquam baptizata communiter habebatur aut eius baptismus erat dubius, standum est, ad normam can. 1014, provalore matrimonii, donec certo probetur alteram partem baptizatam esse, alteram vero non baptizatam.” *CIC/17*, c. 1014 reads: “Marriage enjoys the favor of law; therefore in doubt the validity of marriage is to be upheld until the contrary is proved, with due regard for the prescription of Canon 1127.” See also PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 13.

perversion, a mixed religion marriage is forbidden even by divine law.²²⁰ The 1983 Code stipulates that the marriage between a Catholic and a non-baptized person is invalid unless a dispensation is received from the competent authority:

Canon 1086, §1. A marriage between two persons, one of whom has been baptized in the Catholic Church or received into it, and the other of whom is not baptized, is invalid.

Canon 1086, §1 establishes the diriment impediment of disparity of worship. As the category of impedient (prohibitive) impediments was eliminated from the Code, the mixed religion marriage is treated separately in the Code (cc. 1124–1129).

In accordance with canon law, a person who has not been baptized and is not a catechumen is considered to have the same juridical status as an unbeliever. The danger of falling away from the faith by the Catholic party and their children creates a right and obligation to safeguard the faith that is essential by divine law. The legislator allows for the possibility of dispensation if certain definite conditions are fulfilled, while preserving the fundamental, natural right of unbaptized persons to contract marriage.²²¹

Couples and their children in mixed marriages regularly face difficulties in preserving their faith, commitment, and harmony of family life. When both spouses belong to the same faith, the relationship between these people is less likely to experience difficulties. Therefore, a marriage between a Catholic person and a non-baptized person requires an intervention of the ecclesiastical authority, i.e. granting the dispensation from the impediment of disparity of worship. By requiring this dispensation, the law is

²²⁰ “[...] indeed, if there is a danger of perversion to the Catholic spouse and children, that marriage is forbidden even by divine law (c. 1060). See also BAÑARES, “Individual Diriment Impediments,” 1183.

²²¹ See J. HERVADA, “Individual Diriment Impediments,” in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, 2nd rev. ed., Montréal, Wilson & Lafleur Ltée, 2004 (=CCLA), 830.

warning the parties of possible difficulties and helping them to overcome such difficulties successfully.²²²

The Church in Thailand is fully aware of possible difficulties that may arise in an inter-faith marriage when a Catholic party marries a Buddhist (non-believing) partner. Therefore, in each diocese there are persons, clerics and laity, who are charged with the task of preparing couples entering into the disparity of worship marriages.

3.3.2 – Conditions for Granting Dispensation

The 1983 Code defines the diriment impediment of disparity of worship in c. 1086 which is comprised of three paragraphs. Paragraph two of c. 1086 stresses that the conditions for mixed marriages listed in cc. 1125–1126 need to be fulfilled before the dispensation of the impediment of disparity of worship is granted.²²³

3.3.2.1 – Declaration and Promise of the Catholic Party

The Church demands that the Catholic party follow the conditions for dispensation from this impediment, which serve to protect the faith of the Catholic party and facilitate his/her fulfillment of essential duties, such as safeguarding the Catholic baptism and education of the children.²²⁴

²²² See HUELS, *The Pastoral Companion*, 221; see also J.A. FUENTES, “Matrimonios mixtos y con disparidad de cultos en la actualidad. El matrimonio de cristianos con musulmanes,” in *Forum canonicum*, 8 (2013), 9–36.

²²³ See also PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 13–15; G. READ, “The Origins of the Promises to Be Made in a Mixed Marriages,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 118 (1999), 41–44.

²²⁴ Cf. *CIC/17*, c. 1061. See also PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 11–12.

CIC/17, c. 1071 refers to the conditions for entering into a mixed marriage in canons 1060–1064. In particular, canon 1061 lists the requisites for dispensation from the matrimonial impediment of disparity of worship:

CIC/17, c. 1061, §1. The Church does not dispense from the impediment of mixed religion, unless:

- 1° Just and grave causes so urge;
 - 2° The non-Catholic spouse gives a precaution to remove the danger of perversion from the Catholic spouse, and from both spouses [there is a promise] that all children will be baptized only Catholic and so educated;
 - 3° There is moral certitude the cautions will be implemented.
- §2. These cautions are regularly required in writing.²²⁵

The motu proprio *Matrimonia mixta* introduced a new and different view on the impediment of mixed religion and the diriment impediment of disparity of worship:

[t]he Church, taking into account the nature and circumstance of times, places and persons, is prepared to dispense from both impediments, provided there is a just cause.²²⁶

In the 1983 Code, the dispensation from the impediment of disparity of worship is subject to the same canonical conditions as permission for a mixed marriage. Canon 1086, §2 reads: “A person is not to be dispensed from this impediment [disparity of worship] unless the conditions mentioned in cc. 1125 and 1126 have been fulfilled:”

Canon 1125. The local ordinary can grant a permission of this kind if there is a just and reasonable cause. He is not to grant it unless the following conditions have been fulfilled:

- 1° The Catholic party is to declare that he or she is prepared to remove dangers of defecting from the faith and is to make a sincere promise to do all in his or her power so that all offspring are baptized and brought up in the Catholic Church.²²⁷

Practically, this means the Church is ready to dispense from the impediment of disparity of worship and to grant permission for mixed marriages, while respecting the

²²⁵ Canon 1061, §1: “Ecclesia super impedimento mixtae religionis non dispensat, nisi: 1° Urgeant iustae ac graves causae; 2° Cautionem praeterit coniux acatholicus de amovendo a coniuge catholico perversionis periculo, et uterque coniux de universa prole catholice tantum baptizanda et educanda; 3° Moralis habeatur certitudo de cautionum implement. §2. Cautiones regulariter in scriptis exigantur.”

²²⁶ No. 3, in AAS, 62 (1970), 261, *FLANNERY*1, 512.

²²⁷ Canon 1125: “Huiusmodi licentiam concedere potest Ordinarius loci, si iusta et rationabilis causa habeatur; eam ne concedat, nisi impletis condicionibus quae sequuntur: 1° pars catholica declaret se paratam esse pericula a fide definiendi remove atque sinceram promissionem praestet se omnia pro viribus facturam esse, ut universa proles in Ecclesia catholica baptizetur et educetur.”

determined conditions. The present legislation thus takes a prudential view on this matter. The dispensation is not presumed to be automatically granted even if the promises of the Catholic party have been made, that he or she is prepared to remove the dangers of falling away from the faith and promises to do all in his or her power to have all the children baptized and brought up in the Catholic Church. The competent authority should determine whether such dispensation will help or harm the faith of the Catholic party. Canon 1125 states that the competent authority can grant a dispensation; nevertheless, he is not to grant it unless the conditions mentioned in the canon are fulfilled. This would include an assessment of the sincerity of the Catholic party in making the promises.²²⁸

The local ordinary can grant a dispensation from the impediment of disparity of worship provided that a just and reasonable cause exists (cf. c. 90, §1). The just and reasonable cause is something more than the Catholic party's desire to marry. This cause can be positive, for instance, the couple's mature awareness of their responsibilities arising from the sacrament of marriage, or negative, for example, danger of entering into an invalid marriage with the non-believer. Beal's reasoning on the matter of mixed marriages can be applied to the assessment of the cause for granting a dispensation from the impediment of disparity of worship: "[a]ssessing the sufficiency of the cause for this permission can be reduced in practice to determining whether there are adequate safeguards for the faith of the Catholic party and the children."²²⁹ This explanation can also be applied in case of granting the dispensation for the disparity of worship.

²²⁸ See DOYLE, "Marriage (cc. 1055–1165)," 802; see also E. GAJDA, "Nature of Mixed Marriages License," in *Folia canonica*, 2 (1999), 204–208; ASANBE, "Mixed Marriages in the Light of Ecumenism," 529.

²²⁹ J.P. BEAL, "Mixed Marriages," in *CLSA Comm2*, 1345.

The minister, especially the pastor of the parish where the marriage preparation takes place, is responsible to see that the couple reflects on their marriage regarding their religious differences to foresee any disagreements or conflicts. If the minister considers that such disagreements are grave and cannot find a solution, he should not continue this marriage process or he may recommend that the local ordinary not grant the dispensation in this case.²³⁰

It is arguable that although the impediment of disparity of worship binds directly only the Catholic party because only Catholics are bound by the ecclesiastical law, nevertheless c. 1059 affirms the jurisdiction of the Church over every marriage of a Catholic person: “Even if only one party is Catholic, the marriage of Catholics is governed not only by divine law but also by canon law, without prejudice to the competence of civil authority concerning the merely civil effects of the same marriage.”²³¹ Consequently, in accordance with c. 1125, 1°, in every case the Catholic party must declare that he or she is ready to remove the dangers of falling away from practicing the Catholic faith. He or she should realize the possible problems arising from differences of religion, especially taking into account those problems which might have appeared during the engagement period. In the Thai context especially, the situation involving a practicing Buddhist spouse or family, strongly opposing Catholic practice or teaching, should be discussed and resolved before the marriage takes place. Furthermore, if the Catholic party foresees an opposition from the Buddhist party or total indifference regarding religious views, he or she must be made aware of the possible difficulties

²³⁰ See HUELS, *The Pastoral Companion*, 222.

²³¹ Cf. *CIC/17*, c. 1016: “Marriage of the baptized is ruled not only by divine law but also by canon [law], with due regard for the competence of civil power concerning the merely civil effects of said marriage.”

arising from practicing the faith. In a situation of open hostility of the Buddhist party, the local ordinary can deny granting the dispensation.²³²

The Catholic party must also make a promise to do all in his or her power to ensure that all children will be baptized and raised in the Catholic Church.²³³ This is also one of the conditions for granting the dispensation from the impediment of disparity of worship. The realization of this promise may include a sincere effort to prepare the children for the sacraments through catechesis at home and further Catholic formation outside the home.²³⁴

Canon 1126. It is for the conference of bishops to establish the method in which these declarations and promises, which are always required, must be made and to define the manner in which they are to be established in the external forum and the non-Catholic party informed about them.²³⁵

The conference of bishops is to establish the precise regulations governing the manner in which the declarations and promises are to be made and also determine the way in which they are to be verified in the external forum and made known to the non-Catholic party.²³⁶

Decree no. 11 of the CBCT deals with the norms for preparation and investigation that Thai Catholics must undergo prior to getting married in the Church. This includes marriages between a Catholic and a Buddhist, with the impediment of disparity of worship:

²³² Cf. BEAL, “Mixed Marriages (cc. 1124–1129),” 1345–1346.

²³³ Cf. GS, no. 48, in AAS, 58 (1966), 1067–1069, *FLANNERY*1, 950–952.

²³⁴ Cf. BEAL, “Mixed Marriages (cc. 1124–1129),” 1346.

²³⁵ Canon 1126: “Episcoporum conferentiae est tum modum statuere, quo hae declarationes et promissiones, quae semper requiruntur, faciendae sint, tum rationem definire, qua de ipsis et in foro externo constet et pars non catholica certior reddatur.”

²³⁶ See DOYLE, “Marriage (cc. 1055–1165),” 804.

In accordance with the prescription of canon 1067,²³⁷ the Catholics' Bishop Conference of Thailand hereby decrees that the followings are to be observed before assisting at a marriage:

- 1) use the investigation form prescribed by the Bishops' Conference of Thailand;²³⁸
- 2) the investigation must be done at least one month before the marriage;
- 3) the marriage banns are to be published on at least two Sundays consecutively, even in the case of marriages between Catholics and non-Catholics, and also in case of validation of marriage, unless there is sufficient reason for doing otherwise, but this decision is at the discretion of the Bishop of the place where the parties have domicile.²³⁹

Additionally, Decree no. 13 of the CBCT discusses declarations and promises that must be made in the case of a mixed marriage. In accordance with c. 1086, §2, this norm also applies to disparity of worship marriages in Thailand:

In accordance with the prescription of canon 1126, the Catholic Bishops' Conference of Thailand hereby decrees as follows:

- 1) the Catholic party is to declare that he or she is prepared to remove dangers of defecting from the faith, and is to make a sincere promise to do all in his or her power in order that all the children be baptized and brought up in the Catholic Church, the manner of these declarations are to be made in writing before the parish priest or his delegated priest;
- 2) the other party is to be informed in good time of these promises to be made by the Catholic party, so that it is certain that he or she is truly aware of the promise and of the obligation of the Catholic party, he or she is to sign the name before the parish priest or his delegated priest showing he or she recognizes the declaration and promise of the Catholic party;
- 3) both parties are to be instructed about the purposes and essential properties of marriage by the parish priests or the persons duly delegated;
- 4) the above mentioned norms are to be applied also in the case of disparity of worship.²⁴⁰

The CBCT has approved a prenuptial investigation process for the Catholic Church of Thailand. This investigation also includes the form for the publication of banns

²³⁷ Canon 1067: "The conference of bishops is to establish norms about the examination of spouses and about the marriage banns or other opportune means to accomplish the investigations necessary before marriage. After these norms have been diligently observed, the pastor can proceed to assist at the marriage."

²³⁸ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Pre-Marital Investigation Form, in Appendix 4, 268–272.

²³⁹ CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 11: Preparation and Investigation before Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 1, 265.

²⁴⁰ CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in Appendix 3, 267.

and the promises that must be made in the case of a mixed marriage²⁴¹ and before receiving the dispensation from the impediment of disparity of worship. If the Catholic party has not made these declarations and promises, the local ordinary must deny granting the dispensation for the celebration of this marriage.

3.3.2.2 – Information Provided to and Required from the Non-baptized Party

In accordance with the 1917 Code, the non-baptized party was required to make promises (*cautiones*) to safeguard the faith of the Catholic party and to ensure that all children will be baptized and educated in the Catholic faith alone,²⁴² whereas in the 1983 Code, the non-baptized party is not obliged to make any promise concerning the faith of the Catholic party or the raising of the children in the faith.²⁴³ However, the second condition indicated in c. 1125 is that the non-baptized party should be informed about the declarations and promises the Catholic party has made before entering into the marriage.

Canon 1125, 2° The other party is to be informed at an appropriate time about the promises which the Catholic party is to make, in such a way that it is certain that he or she is truly aware of the promise and obligation of the Catholic party.²⁴⁴

The declarations and promises made by the Catholic party are the necessary condition, but still not sufficient for granting the dispensation from the impediment of disparity of worship. Additionally, the non-baptized party must be informed of the Catholic's declarations and promises; however, unlike under the 1917 Code, c. 1061, §1, 2°, the unbaptized party no longer must promise to avert all dangers of perversion from

²⁴¹ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, A Vow of a Catholic Who Marries a Non-Catholic, Bangkok, CBCT, 1992, in Appendix 6, 276.

²⁴² Cf. *CIC/17*, c. 1061, §1, 2°.

²⁴³ See J. MENDONÇA, The Impediment of Disparity of Cult between Catholics and Hindus: In the Diocese of Mangalore, India, JCD thesis, Rome, Pontificia Universitas Urbaniana, 1995, 43–44.

²⁴⁴ Canon 1125, 2°: “de his promissionibus a parte catholica faciendis altera pars tempestive certior fiat, adeo ut constet ipsam vere consciam esse promissionis et obligationis partis catholicae.”

the Catholic spouse, and that all children will be baptized and educated solely in the Catholic faith. However, the ecclesiastical authority must be confident that the non-baptized party understands and recognizes that the Catholic party has undertaken this religious obligation. In practical terms, the parish priests or pastoral ministers charged with marriage preparation assist (using their communication skills and understanding of the religious and cultural background of the unbaptized [Buddhist] party, and taking into account the circumstances of each case) in reaching a humanly satisfactory level of understanding of religious obligations of the Catholic party before requesting the dispensation from the ecclesiastical authority.

The suitable time for informing the non-Catholic party about the Catholic's promises is during the marriage preparation process. The pastor or priest who is responsible for the marriage preparation should encourage the couple to discuss the religious issues in their marriage, possible sources of tension, and strategies for dealing with conflicts. The minister should assist the couple in reaching an understanding of the issues at stake, and especially for the Buddhist, the understanding of the importance of Catholic upbringing of children.²⁴⁵

Indeed, Decree no. 13 of the CBCT states that the Buddhist party must be informed in good time about the declarations and promises made by the Catholic party. The purpose and intent of informing the Buddhist party is to ensure that he or she is aware of these declarations and promises and that he or she must allow the Catholic party to practice his or her faith, e.g., attend Mass every Sunday. In practice, the Buddhist party is informed that he or she cannot demand from the Catholic party his or her participation

²⁴⁵ Cf. BEAL, "Mixed Marriages (cc. 1124–1129)," 1347.

in rituals or in traditional practices that are against the Catholic faith. This clause is very important in the Thai context because after the marriage, especially if the husband is Buddhist and the couple lives with his parents, there will likely be significant pressure on the Catholic party to participate in Buddhist rituals and to abandon her practice of the faith.²⁴⁶

The phrase “informed in good time of these promises” in the Decree no. 13 means that the Buddhist party is to be informed of the promises of the Catholic spouse during the time of the marriage investigation. There is a section for a non-Catholic party attached to the prenuptial investigation form of the CBCT,²⁴⁷ which the Buddhist party must sign thus acknowledging that he or she has been informed of the declarations and promises made by the Catholic party. This helps to ensure that any issues that may cause problems in the future marriage can be discussed and resolved before the marriage takes place. Therefore, it is important that the local ordinary requires that the Buddhist party be informed of the conditions to be fulfilled by the Catholic party before granting the dispensation.

However, if the Buddhist party when informed about the conditions placed on the Catholic party refuses to allow the Catholic to practice their faith or provide for the Catholic baptism and education of their children in the faith, the local ordinary is to carefully evaluate the situation if the grant of the dispensation would be advisable. In this case, one has to refer to the norms on dispensations which determine the necessary parameters for granting these favours. Canon 87 §1 states that a diocesan bishop can dispense the faithful from universal and particular disciplinary laws whenever he judges

²⁴⁶ Cf. MENDONÇA, *The Impediment of Disparity of Cult between Catholics and Hindus*, 45.

²⁴⁷ See CATHOLIC BISHOPS’ CONFERENCE OF THAILAND, Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in Appendix 3, 267.

that it contributes to their spiritual good. If a dispensation from the impediment of disparity of worship is to contribute to the spiritual good of the faithful, then there is to be humanely sufficient assurance that the proposed marriage will not pose a threat to the Catholic's faith and to fulfillment of religious obligations towards their children. While it is true that the non-baptized party is no longer obliged to make any promise concerning the faith of the Catholic party or the raising of the children in the faith, nevertheless one should distinguish between the simple lack of commitment and the express will to preclude the Catholic party from the practice of religion and Catholic upbringing of children. If this last situation occurs, one can legitimately pose a question: what contribution to spiritual good of the Catholic party is actually being accorded if the life of faith of the Catholic spouse and/or of his/her children is put into jeopardy? Could any higher good prevail, for instance, the spiritual good of the community or some natural benefits associated with marriage, if the good of the faith of the concrete person is endangered? Indeed, c. 90 §1 when referring to a just and reasonable cause for dispensation, directs the ecclesiastical authority to consider the circumstances of the case and the gravity of the law from which dispensation is given. If the value of eternal salvation supersedes all others, then any natural goals are subordinate to the supreme law of the Church which is the salvation of souls.²⁴⁸

²⁴⁸ Cf. KOWAL, "Power of the Church to Dissolve the Matrimonial Bond in Favour of the Faith," 435. Questions of sincerity of promises were considered in canonical doctrine, see the answer by Supreme Sacred Congregation for the Holy Office to the Apostolic Delegate of Japan regarding the *cautiones* required for marriages between Catholics and non-Catholic parties, in 1938, in T.L. BOUSCAREN, "Mixed Marriages in Japan: Reply and Explanation of Principle Regarding Promises (Holy Office, 21 April 1938) Private," in *CLD*, vol. 2, 281; see also W.F. ALLEN, "The Insincerity of the *cautiones* – Disparity of Worship," in *J*, 16 (1956), 64–67.

Additionally, the Buddhist party must sign the “Affidavit Showing Freedom to Marry on Part of Non-Christian Person”²⁴⁹ declaring that he or she is free to marry. This is done after the completion of the marriage preparation program, during which the parish priest or pastoral minister make the Buddhist party understand this issue in accordance with the Church’s discipline.

3.3.2.3 – Marriage Instruction for Both Parties

The third condition in c. 1125 is that both parties are to be instructed about the nature, properties, and ends of marriage.²⁵⁰

Canon 1125, 3° both parties are to be instructed about the purposes and essential properties of marriage which neither of the contracting parties is to exclude.²⁵¹

The Church desires to ensure that both parties understand Catholic doctrine on marriage. The marriage instruction should be positive while stressing at the same time that the couple need to respect the purpose of marriage and married life. At the end of the instruction, both parties should accept the principles of fidelity and indissolubility, and should not exclude the essential properties of marriage from his or her consent.²⁵²

Marriage instruction plays an important role in the success of a marriage; hence, it should be given sufficient attention. This is even more vital in the Thai culture, because there are some major differences in the ideas and mentality of Buddhists regarding the nature, purpose, and essential properties of marriage as our study has already mentioned.

²⁴⁹ See CATHOLIC BISHOPS’ CONFERENCE OF THAILAND, Certification of the Status of the Non-Catholic, Bangkok, CBCT, 1992, in Appendix 7, 277.

²⁵⁰ See BEAL, “Mixed marriages (cc. 1124–1129),” 1347; see also DOYLE, “Marriage (cc. 1055–1165),” 804.

²⁵¹ Canon 1125, 3°: “ambae partes edoceantur de finibus et proprietatibus essentialibus matrimonii, a neutro contrahente excludendis.”

²⁵² See BEAL, “Mixed Marriages (cc. 1124–1129),” 1347.

In accordance with the norm of c. 1125, repeated in Decree no. 13 of the CBCT, the instructions on the nature, purpose, and essential properties of marriage are to be given to both parties in a marriage, the Catholic and the Buddhist. Evidently, the Buddhist party is not required to believe in the Church's doctrine on the ends and essential properties of marriage but, in order to enter into a valid marriage, may not exclude them by his or her positive act of the will. For example, a Buddhist man may believe that divorce and remarriage are acceptable according to Buddhist principles, but he must intend to enter the marriage with the Catholic party for their whole life.²⁵³

Normally, the preparation for marriage will be a responsibility of the parish priest in the location where the Catholic party has domicile or where the marriage will take place. He must instruct a couple before they enter into marriage. The Archdiocese of Bangkok has provided pre-nuptial marriage courses to instruct couples at the diocesan center and Holy Redeemer Church, both of which are located in downtown Bangkok.

A Buddhist party must be instructed on Catholic marriage teaching; he or she should be informed about all conditions before entering into a Catholic marriage. Parish priests are encouraged to use the instruments of social communication so that the couples understand better the teaching of the Church. The future spouses should be shown that marriage is not merely a social institution, or secular contract of partnership but rather a marriage covenant and a vocation as seen in Catholic teaching on marriage.²⁵⁴ As the analysis of Buddhist understanding of marriage in Chapter 2 showed (sections 2.1.2.2 and 2.3.1 of the thesis), Buddhist and Catholic understandings of marriage converge in

²⁵³ See HUELS, *The Pastoral Companion*, 225.

²⁵⁴ See *FC*, no. 66, in *AAS*, 74 (1982), 159–162, *FLANNERY*2, 869–871; see also MENDONÇA, *The Impediment of Disparity of Cult between Catholics and Hindus*, 50.

considering marriage to be a permanent and stable relationship between a man and a woman, with mutual obligations to help and support each other.

The instruction on the nature, ends, and essential properties of marriage can be satisfied for the most part by observing the marriage preparation programs operative in each of the particular churches in Thailand.²⁵⁵

3.3.2.4 – Right and Obligation of Education of Children

Marriage is ordered to the procreation and education of children. The rights and obligations of the parents in this regard extend to the whole life of their children, especially in the Buddhist environment.²⁵⁶ Therefore, the future spouses should be advised about their role as parents in the education and human formation of their children. Catholic parents have specific tasks: to bring their children to be baptized as soon as possible after birth,²⁵⁷ and to prepare them at the suitable time for admission to Holy Communion, and reception of the sacraments of reconciliation and confirmation.²⁵⁸ The children should receive catechesis at home from their parents²⁵⁹ and have opportunities for further Catholic instruction outside their home.²⁶⁰

The Catholic party entering into a marriage with a non-baptized party must promise to do all in his or her power to see that the children of this marriage are baptized and brought up in the Catholic Church.

²⁵⁵ Examples of the marriage preparation programs in Thailand will be presented in Chapter Four of this dissertation.

²⁵⁶ Cf. c. 1136.

²⁵⁷ Cf. c. 867, §1.

²⁵⁸ Cf. cc. 890 and 914.

²⁵⁹ Cf. c. 774, §2.

²⁶⁰ Cf. c. 793, §1.

In accordance with c. 1125, 1°, the Catholic party is to “make a sincere promise to do all in his or her power so that all offspring are baptized and brought up in the Catholic Church.” This condition is required before granting a dispensation from the impediment of disparity of worship; the Catholic party must promise to make a sincere effort to fulfill these obligations.²⁶¹ However, this promise of the Catholic party presents some concerns, specifically in the Buddhist context. A strongly observant Buddhist will have difficulty with this promise as the Buddhist party is to be informed and expected to honour the Catholic party’s responsibilities towards their children. Especially if a child is a boy, the Buddhist family would not wish this boy to be baptized in the Catholic Church. In the Buddhist tradition, it is a duty of the son to become a monk for the sake of his parents. Buddhist parents believe that after their son becomes a monk for a certain period of time, they can finally go to heaven or achieve *nirvana*.²⁶² Hence, there is a danger that although before the marriage the Buddhist party might not object to the promise of the Catholic party, nevertheless after the marriage has been contracted the true intention of the Buddhist party would become known. Consequently, the Buddhist spouse may not allow the Catholic party to practice the Catholic faith and let the children be baptized and brought up in the Catholic Church.²⁶³ From experience with dealing with marriage cases in the Archdiocese of Bangkok, it may be concluded that such situations are the reality for some Catholic parties who live in Buddhist environment.

²⁶¹ See BEAL, “Mixed Marriages (cc. 1124–1129),” 1346.

²⁶² See THE PUBLIC RELATION DEPARTMENT, *Buddhism in Thai Life*, 92.

²⁶³ See MENDONÇA, *The Impediment of Disparity of Cult between Catholics and Hindus*, 48.

3.4 – The Celebration of a Marriage with the Dispensation from the Impediment of Disparity of Worship

Once the marriage preparations are taken care of, the necessary conditions are met and the dispensation from the impediment is granted, the wedding ceremony is the final concern. The mutual consent of the parties is the efficient cause of marriage; it is obligatory that the consent be lawfully manifested. It implies, therefore, that the celebration of marriage is not merely a private event between the spouses but it has important implications for the whole society through its social and ecclesial recognition.²⁶⁴

3.4.1 – Celebration in accordance with the Canonical Form

The form of marriage is the complex of external rituals and ceremonies required by law for its official celebration. The canonical form is composed of the solemnities to recognize the relationship as a valid marriage required by the Church.²⁶⁵

A marriage between a Catholic and a Buddhist, even though is not sacramental, must be celebrated following the canonical form because one of the parties is Catholic (cf. c. 1059); however, there is always a possibility for a dispensation from observing the canonical form, in accordance with c. 1127, §2.

²⁶⁴ See K.P. KUMAR, *A Juridical and Pastoral Analysis of the Canonical Impediment of Disparity of Cult* according to 1983 Code, Can. 1086, JCD thesis, Rome, Pontificia Universitas Urbaniana, 2004, 75–76.

²⁶⁵ See BEAL, “Diriment Impediments in General (cc. 1073–1082),” 1325.

3.4.1.1 – The Canonical Form of Marriage

It is necessary for the validity of the marriage for the parties to manifest their consent to marry each other. It is explicit in c. 1057, §1 of the 1983 Code which mentions the importance of the legitimately manifested consent of the parties in making the marriage capable in law.²⁶⁶ The Church imposes on the faithful entering into a marriage the obligation of following certain solemnities, i.e. canonical form, in order to recognize the union as a valid marriage. Canonical form of marriage “is distinguished from liturgical form, the latter being the rites and ceremonies which accompany the exchange of the consent.”²⁶⁷ Canon 1108 explains the meaning of the canonical form of marriage and the role of the official witness of the Church:

Canon 1108, §1. Only those marriages are valid which are contracted before the local ordinary, pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses according to the rules expressed in the following canons and without prejudice to the exceptions mentioned in cann. 144, 1112, §1, 1116, and 1127, §§1–2.²⁶⁸

To assist at a marriage is neither an act of the power of governance nor an act of the power of order. The right and faculty to assist at marriages is attached to one’s office, or it can be delegated. For the validity of marriage, the act of assistance is required.

Canon 1108, §2. The person who assists at a marriage is understood to be only that person who is present, asks for the manifestation of the consent of the contracting parties, and receives it in the name of the Church.²⁶⁹

The priest, deacon, or lay person, who may have the faculty to assist at marriages by virtue of their office or by delegation are sometimes referred to in canonical writings

²⁶⁶ See HUELS, *The Pastoral Companion*, 280.

²⁶⁷ DOYLE, “Marriage (cc. 1055–1165),” 793.

²⁶⁸ Canon 1108, §1: “Ea tantum matrimonia valida sunt, quae contrahuntur coram loci Ordinario aut parocho aut sacerdote vel diacono ab alterutro delegato qui assistant, necnon coram duobus testibus, secundum tamen regulas expressas in canonibus qui sequuntur, et salvis exceptionibus de quibus in cann. 144, 1112, §1, 1116 et 1127, §§1–2.”

²⁶⁹ Canon 1108, §2: “Assitens matrimonio intellegitur tantum qui praesens exquirat manifestationem contrahentium consensus eamque nomine Ecclesiae recipit.”

as “the official witness,” “authorized witness,” or “qualified witness” to clarify their role vis-à-vis the other two witnesses.²⁷⁰

Two other witnesses must attend physically and morally during the manifestation of consent in the marriage ceremony. They must have the use of reason and sufficient discretion to know, understand, and be able to testify about their tasks. Anyone can be a valid witness in a Catholic marriage: a minor, a non-baptized person, etc. The law presumes use of reason, when these persons reach the age of seven.²⁷¹

3.4.1.2 – Those Bound to the Form of Marriage

The basic principle of marriage is that Catholics must observe the ordinary or extraordinary canonical form when they marry:

Canon 1117. The form prescribed above must be observed if at least one of the parties contracting the marriage was baptized in the Catholic Church or received into it, without prejudice to the provisions of can. 1127, §2.²⁷²

If at least one of the parties is Catholic, canon law requires, in ordinary situations, that for validity the marriage be celebrated according to the canonical form.

Two baptized persons lawfully manifesting their marriage consent enter into a sacramental marriage. A marriage with the impediment of disparity of worship from which the dispensation has been granted cannot obtain the sacramental character. If a Catholic marries a non-baptized person, even though all the required formalities have been met and canonical form has been followed, the Catholic party enters into a valid

²⁷⁰ See HUELS, *The Pastoral Companion*, 279–280.

²⁷¹ See *ibid.*, 280–281.

²⁷² Canon 1117: “Statuta superius forma servanda est, si saltem alterutra pars matrimonium contrahentium in Ecclesia catholica baptizata vel in eandem recepta sit, salvis praescriptis can. 1127, §2.” In accordance with Pope Benedict XVI’s apostolic letter *motu proprio Omnium in mentem*, of 26 October 2009, a person who has left the Church by a formal act is no longer exempt from the observance of canonical form of marriage.

marital union, with a binding natural bond of marriage, nevertheless he or she does not benefit from the sacrament of marriage.²⁷³

There were some proposals voiced that the obligation of following canonical form be abolished.²⁷⁴ However, this canonical requirement is justified for many reasons. First of all, the suppression of the form would create very likely an obstacle to the pastoral work of the Church which would often find it difficult to assess the validity of a given marriage. For instance, without the need to follow canonical form, it would be difficult to determine whether the marriage was celebrated after the dispensation from a diriment marriage impediment has been secured, i.e., whether it was celebrated validly or not. Another, and a more important reason to justify the preservation of the canonical form is to oppose divorce. In this context, the canonical form required for the validity of marriage protects the essential properties of marriage, i.e. unity and indissolubility because the freedom of the parties entering into a marriage is verified beforehand by the Church's authority (cf. c. 1066). Additionally, the ritual solemnities of contracting marriage indicate the sacred nature of marriage and the permanent commitment of the married couple.²⁷⁵

Through following the requirements of canonical form, the natural bond of marriage between a baptized and non-baptized party obtains public status. The canonical form becomes a visible and external confirmation of the celebration of marriage and thus provides a certainty of juridical act of marriage consent. The canonical form indicates also that the Church has jurisdiction over marriages in which at least one party is baptized

²⁷³ See KUMAR, A Juridical and Pastoral Analysis of the Canonical Impediment, 79.

²⁷⁴ See E. DUNDERDALE, "The Canonical Form of Marriage: Anachronism or Pastoral Necessity?" in *Studia canonica*, 12 (1978), 46–47.

²⁷⁵ See *ibid.*, 48–52.

in the Catholic Church. This power of control is definitely justified because it corresponds to the Church's responsibility in safeguarding the institution of marriage as ordered by God.²⁷⁶

3.4.2 – Dispensation from the Canonical Form to Celebrate a Marriage in the Thai Wedding Ceremony

The canonical form of marriage is a requirement of merely ecclesiastical law; hence it can be dispensed by the competent authority.²⁷⁷ A dispensation from the canonical form can be granted by the local ordinary of the Catholic party in accordance with c. 1127, §2.

3.4.2.1 – Canonical and Liturgical Form of Marriage

The 1983 Code retains the norms of *MM* concerning the faculty of dispensation and ascribes it to the local ordinary of the Catholic party.²⁷⁸

Canon 1127, §2. If grave difficulties hinder the observance of canonical form, the local ordinary of the Catholic party has the right of dispensing from the form in individual cases, after having consulted the ordinary of the place in which the marriage is celebrated and with some public form of celebration for validity. It is for the conference of bishops to establish norms by which the aforementioned dispensation is to be granted in uniform manner.²⁷⁹

²⁷⁶ See KUMAR, A Juridical and Pastoral Analysis of the Canonical Impediment, 84–85.

²⁷⁷ See c. 85: “A dispensation, or the relaxation of a merely ecclesiastical law in particular case, can be granted by those who possess executive power within the limits of their competence, as well as by those who have the power to dispense explicitly or implicitly either by the law itself or by legitimate delegation.”

²⁷⁸ See *MM*, nos. 9–10, in *AAS* (1970), 261–262, in *FLANNERY I*, 512–513. Cf. KUMAR, A Juridical and Pastoral Analysis of the Canonical Impediment, 86.

²⁷⁹ Canon 1127, §2: “Si graves difficultates formae canonicae servandae obstant, Ordinario loci partis catholicae ius est ab eadem in singulis casibus dispensandi, consulto tamen Ordinario loci in quo matrimonium celebratur, et salva ad validitatem aliqua publica forma celebrationis; Episcoporum conferentiae est normas statuere, quibus praedicta dispensatione concordi ratione concedatur.”

Canon 1127, §2 states that dispensation from the canonical form for a marriage with the impediment of disparity of worship can be granted by the local ordinary of the Catholic party, i.e., the local ordinary of the place where the Catholic party has domicile or quasi-domicile or, for those with no domicile or quasi-domicile, the local ordinary of that person's current residence.²⁸⁰ In accordance with c. 1127, §2, the local ordinary of the Catholic party has to consult the local ordinary of the place of marriage. However, according to Beal, if the local ordinary of the Catholic party grants the dispensation without consulting the local ordinary of the place of marriage, the dispensation is still valid. The purpose of this consultation is to prevent confusion among the faithful in the case of a Catholic who marries in a non-Catholic wedding ceremony perhaps with the presence of a Catholic minister.²⁸¹

Before granting a dispensation the local ordinary needs to take into account not only grave difficulties in observing canonical form, but also other factors²⁸² contributing to determination of a just and reasonable cause for a valid grant of dispensation from a merely ecclesiastical law. Therefore, c. 90, §1 should be taken into account in this context:

Canon 90, §1. One is not to be dispensed from ecclesiastical law without a just and reasonable cause, after taking into account the circumstances of the case and the gravity of the law from which dispensation is given; otherwise the dispensation is illicit and, unless it is given by the legislator himself or his superior, also invalid.²⁸³

²⁸⁰ See cc. 100 and 107, §2.

²⁸¹ See BEAL, "Mixed Marriages (cc. 1124–1129)," 1349; see also ASANBE, "Mixed Marriages in the Light of Ecumenism," 530.

²⁸² For instance, "maintaining of family harmony, obtaining parental consent to the marriage, the recognition of the particular religious commitment of the non-Catholic partner or his/her blood relationship with the minister of another Church or ecclesial Community." See E.G. PFNAUSCH, "Canons 1118 and 127, §2: Place of Marriage and Dispensation from Form," in K.W. VANN and J.A. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 1996, 105.

²⁸³ Canon 90, §1: "A lege ecclesiastica ne dispensetur sine iusta et rationabili causa, habita ratione adiunctorum casus et gravitatis legis a qua dispensatur; alias dispensatio illicita est et, nisi ab ipso legislatore eiusve superiore data sit, etiam invalida."

A dispensation from an ecclesiastical law demands a reason proportionate to its gravity. Thus, a dispensation from a canonical form in case of disparity of worship requires a serious reason and as such, the dispensation is granted rarely, at least in Thailand.²⁸⁴ It is so because Catholic marriages with the impediment of disparity of worship are usually celebrated in accordance with canonical form within Mass in the parish church, as generally Buddhist parties not only have no objections to that but even desire it.

The CBCT has not issued any norms governing the granting of a dispensation from canonical form to celebrate a Thai wedding ceremony. However, from the point of view of canonical practice, it seems that it would have been beneficial that the CBCT issue some norms addressing the matter of dispensations from the canonical form regarding marriages between a Catholic and a Buddhist party by introducing a uniform manner of granting this dispensation in the particular churches of Thailand.

3.4.2.2 – Duplicate Marriage Ceremonies

When a disparity of worship marriage is celebrated according to canonical form, it is strictly forbidden to have another religious ceremony in which consent is exchanged or renewed either before or after the Catholic ceremony:

Canon 1127, §3. It is forbidden to have another religious celebration of the same marriage to give or renew matrimonial consent before or after canonical celebration according to the norm of §1. Likewise, there is not to be a religious celebration in which the Catholic who is assisting and a non-Catholic minister together, using their own rites, ask for the consent of the parties.²⁸⁵

²⁸⁴ Cf. J.E. RISK, “Dispensations (cc. 85–93),” in *CLSA Comm1*, 67; see also KUMAR, A Juridical and Pastoral Analysis of the Canonical Impediment, 85–86.

²⁸⁵ Canon 1127, §3: “Vetatur, ne ante vel post canonicam celebrationem ad normam §1, alia habeatur eiusdem matrimonii celebratio religiosa ad matrimoniale consensum praestandum vel renovandum; item ne fiat celebratio religiosa, in qua assistens catholicus et minister non catholicus insimul, suum quisque ritum peragens, partium consensum exquirant.”

Canon 1127, §3 expressly prohibits duplicate religious ceremonies. It is forbidden to have another non-Catholic or non-Christian religious ceremony during which consent is exchanged or renewed. Additionally, when following c. 1127, §2, a dispensation is granted from observing canonical form, a Catholic ceremony is prohibited before or after the public celebration of such a marriage. This prohibition does not refer to a civil ceremony prior to the religious one in countries where civil law requires it for official recognition of the marital union by the state.²⁸⁶

Thai civil law requires every marriage to be registered by the state in order to be considered legal. Conversely, no religious ceremony is considered as bringing upon a legally recognized marriage. The CBCT considers registered marriages entered into by two Buddhist persons as naturally valid (saving other prescriptions of divine and natural law), but not valid if one of the persons is Catholic and no dispensation from canonical form of marriage has been obtained. If a Catholic marries only in a Catholic ceremony, and subsequently does not register this marriage with the civil authority, the Church marriage is not recognized by the civil law; there is, however, no penalty incurred by the parties.

A Thai wedding ceremony normally is related to the Buddhist rite; however, there is no exchange or renewal of consent in this ceremony. Its purpose is only social. Traditionally, after the Catholic wedding many Buddhist families ask a couple to have Thai wedding ceremony. The purpose of Thai wedding ceremony is to introduce the couple to the community. Although no official document exists, practically the CBCT allows a disparity of worship couple to have a Thai wedding ceremony after first

²⁸⁶ See BEAL, “Mixed Marriages (cc. 1124–1129),” 1351; see also ASANBE, “Mixed Marriages in the Light of Ecumenism,” 533–534.

celebrating the Catholic wedding. This is not against the principles of canon law and it also shows due respect for the Buddhist community. Therefore, the Catholic party may be allowed to participate in a Thai wedding ceremony without the dispensation from the local ordinary. The sequence of the two ceremonies is intentional and serves to underline the principle that only the Catholic ceremony is giving the beginning to the true marriage, therefore avoiding an impression that the Thai traditional ceremony would have a similar effect.

3.4.2.3 – The Place of Celebration of the Wedding

The proper and ordinary place for the celebration of marriage for two Catholics or a Catholic and a baptized non-Catholic, is the parish church. Because marriage between a Catholic party and a non-baptized party is not a sacrament, it does not have to take place in a church although it can.²⁸⁷

Canon 1118, §3. A marriage between a Catholic party and a non-baptized party can be celebrated in a church or in another suitable place.²⁸⁸

While marriages between Catholics and Buddhists are not sacramental, they are religious occasions. The celebration of these marriages should commonly be in the parish church of the Catholic party. However, if the marriage is celebrated in another suitable place, the permission of the local Ordinary is not required. Ideally, the diocese should have guidelines governing this matter.²⁸⁹

²⁸⁷ See DOYLE, “Marriage (cc. 1055–1165),” 798; see also PFNAUSCH, “Canons 1118 and 127, §2: Place of Marriage and Dispensation from Form,” 105.

²⁸⁸ Canon 1118, §3: “Matrimonium inter partem catholicam et partem non baptizatam in ecclesia vel in alio convenienti loco celebrari poterit.”

²⁸⁹ See DOYLE, “Marriage (cc. 1055–1165),” 798.

In Thailand, the Buddhist party usually prefers to celebrate the marriage in the parish church because they feel that a Catholic parish and a Catholic wedding is more attractive than a Thai wedding ceremony held in another place. As a result, most Catholic marriages in Thailand, even disparity of worship marriages, are celebrated in a parish church. This practice accords with the norm of canon law (see c. 1118, §3).

3.4.2.4 – Application of the Canonical and Liturgical Form to Disparity of Worship Marriages

The prescriptions concerning the canonical form and liturgical rite of marriage applied for mixed marriages are ²⁹⁰ also to be applied to marriages with the impediment of disparity of worship:

Canon 1129. The prescripts of cann. 1127 and 1128 must be applied also to marriages which the impediment of disparity of cult mentioned in can. 1086, §1 impedes.²⁹¹

If canonical form is observed, the liturgy of marriage is followed using *The Order of Celebrating Matrimony*,²⁹² which states that the marriage can be celebrated in a Catholic parish but always outside the Mass.²⁹³

²⁹⁰ Cf. cc. 1127–1128.

²⁹¹ Canon 1129: “Praescripta cann. 1127 et 1128 applicanda sunt quoque matrimoniis, quibus obstat impedimentum disparitatis cultus, de quo in can. 1086, §1.”

²⁹² CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLE OF THE SACRAMENTS, *Ordo celebrandi matrimoniorum*, Second Latin Typical Edition, Libreria editrice Vaticana, 1991.

²⁹³ Introduction, no. 36: “If a Marriage takes place between a Catholic and a baptized non-Catholic, the rite for celebrating Matrimony without Mass (nos. 79–117) should be used. If, however, the situation warrants it, the rite for celebrating Matrimony within Mass (nos. 45–78) may be used, with the consent of the local Ordinary; but with regard to admission of the non-Catholic party to Eucharistic Communion, the norms issued for various cases are to be observed. If a Marriage takes place between a Catholic and a catechumen or a non-Christian, the rite given below (nos. 152–178, for purpose of this dissertation paragraph numbers follow the Latin version) is to be used, with the variations provided for different situations” (UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, *The Order of Celebrating Matrimony*, Collegeville, MN, Liturgical Press, 2016). The liturgical commission of Thailand is in the process of translating *The Order of Celebrating Matrimony* into Thai.

The liturgy of matrimony suggests using the order of celebrating matrimony between a Catholic and a catechumen or a non-Christian (non-baptized), which is outside Mass. In fact, parishes in Thailand normally celebrate the disparity of worship marriage within Mass and the CBCT has not issued norms governing this matter. However, the Catholic Mission for Liturgy in Thailand asked the Congregation for Divine Worship and the Discipline of the Sacraments for general permission to celebrate all Catholic marriages between Catholics and unbaptized persons within the Mass. The Congregation responded on 17 July 2018.²⁹⁴ The Dicastery did not grant such a general permission and asked all Bishops to focus on pastoral initiatives encouraging pastors to schedule Mass either on the day before such a wedding or even earlier on the day of wedding celebration itself. This response from the Dicastery indicates that the praxis of the Catholic Church in Thailand of celebrating the marriage rite for a Catholic and Buddhist couple within Mass must change.

Conclusion

The majority of Thai people are Buddhist. The statistics from the CBCT report that the marriages between Catholics and Buddhists make about 66% of all Catholic marriages in Thailand. Many of these Catholics find that there are difficulties living among Buddhists because of differences in faith and practice. This is especially true when Catholics married to Buddhist spouses are living with their Buddhist relatives.

²⁹⁴ See A. ROCHE [the secretary of the Congregation for Divine Worship and the Discipline of the Sacraments], Letter to the President of the CBCT Requesting Information on the “Order of Celebrating Matrimony between a Catholic and a Catechumen or a Non-Christian,” 17 July 2018, in Appendix 10, 281–282.

The Catholic Church is fully aware of potential difficulties arising from the situation of Catholics married to unbaptized persons. However, since entering into a marriage is a fundamental right, the Church permits this marriage, albeit with the conditions that the Catholic party has to fulfill and the Buddhist party has to be duly informed about the responsibilities of the Catholic spouse before the marriage takes place.

Chapter Three explained the canonical consequences of marriage impediments of the 1983 Code and discussed circumstances that might likely prohibit Thai people from entering into a valid marriage. Although the Catholic Bishops' Conference of Thailand has issued some decrees on mixed marriages and disparity of worship marriages in Thailand, nevertheless, it has never revised or updated the content of the 1992 decree regarding the question of marriages impeded by disparity of worship to reflect the present situation.

In the view of the canonical reflection above, the CBCT decree on disparity of worship marriage needs to be revised to address the changes that have taken place in Thai society since the decree was issued in 1992. In 2018, the Catholic Church in Thailand celebrated the 350th anniversary of being constituted as mission territory. This particular opportunity for revising the legislation on mixed marriages was missed, but nothing stands in the way of accomplishing it at any time.

The next chapter will deal with the pastoral care that couples in mixed marriages should receive in Thailand in order to be truly prepared for living out fully their marital vocation. This needs to be started before entering the marriage union and led by qualified persons who would pay attention to the future couple's needs, accompany them from the

very beginning of the process of marriage preparation and continue to support them when they live as a family in Thai society and the Buddhist environment.

CHAPTER FOUR
THE PASTORAL CARE OF THE MARRIAGES OF CATHOLICS
WITH BUDDHISTS IN THAILAND

Introduction

As Canon law is juridical and pastoral in nature both of these aspects of canon law must be taken into account by the Church authorities for the good of the People of God. The salvation of souls is always the supreme concern of the Church.

Pope John Paul II dedicated the Rotal allocution of 1990 to explain the pastoral nature of canon law and its respect for truth. He said:

The pastoral nature of this law, that is, its function within the salvific mission of the pastors of the Church and the entire People of God, [...] finds a solid basis in the conciliar ecclesiology according to which the visible aspects of the Church are linked inseparably to the invisible ones – forming a single unified whole – comparable to the mystery of the incarnate Word (*LG*, no. 8).¹

The present chapter will discuss the norms governing the marriages between Catholics and Buddhists, issued by the Catholic Bishops' Conference of Thailand.² Since these norms were promulgated in 1992, the number of Catholics marrying Buddhists has increased, along with the number of couples encountering difficulties in remaining true to his/her faith demands. As a result the norms of the Conference need to be updated, to take fully into account the current religious and social situation in Thailand. Based on an analysis of the current particular legislation of the Church in Thailand in the present

¹ JOHN PAUL II, allocution to the Roman Rota, 18 January 1990, in *AAS*, 82 (1990), 872–877, English translation in WOESTMAN (ed.), *Papal Allocutions to the Roman Rota 1939–2011*, 209.

² See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 11: Preparation and Investigation before Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992, in Appendix 1, 265; ID., Decree no. 12: Minimum Age for Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992, in Appendix 2, 266; ID., Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992, in Appendix 3, 267.

ecclesial and societal context, certain proposals as to a new set of norms regarding mixed marriages in Thailand will be offered.

4.1 – Preparation for Marriage

In his article on the process of preparation for the reception of the sacraments, John Huels remarks that “[s]ince faith is learned from faith-building experiences, a good marriage preparation program is an excellent way to build up the faith of young couples.”³ At present, there is no prescribed format for a marriage preparation program for the case of a prospective marriage between a Catholic and a Buddhist; however, the pastoral experience in Thailand points to a great need for a marriage preparation program that is relevant to the needs and the particular situation of such a couple. Canon 1063, with its emphasis on the importance of marriage preparation, can be of great help in the formulation of general norms of marriage preparation:

c. 1063. Pastors of souls are obliged to see to it that their own ecclesiastical community furnishes the Christian faithful assistance so that the matrimonial state is maintained in a Christian spirit and makes progress toward perfection. This assistance is especially to be furnished through:

1° preaching, catechesis adapted to minors, youths, and adults, and even the use of the media of social communication so that through these means the Christian faithful may be instructed concerning the meaning of Christian marriage and the duty of Christian spouses and parents:

2° personal preparation for entering marriage so that through such preparation the parties may be predisposed toward the holiness and duties of their new state;

3° a fruitful liturgical celebration of marriage clarifying that the spouses signify and share in that mystery of unity and of fruitful love that exists between Christ and the Church;

4° assistance furnished to those who already married so that, while faithfully maintaining and protecting the conjugal covenant, they may day by day come to lead holier and fuller lives in their families.⁴

³ J.M. HUELS, “Preparation for the Sacraments: Faith, Rights, Law,” in *Studia canonica*, 28 (1994), 55. See also V.P.L. PAPALI, *Preparation a Necessary Requisite for Marriage*, JCD thesis, Bangalore, St. Peter’s Pontifical Institute of Theology, 1992, 84–87.

⁴ Canon 1063: “Pastores animarum obligatione tenentur curandi ut propria ecclesiastica communitas christifidelibus assistentiam praebeat, qua status matrimonialis in spiritu christiano servetur et in perfectione progrediatur. Haec assistentia imprimis praebenda est: 1° praedicatione, catechesi minoribus, iuvenibus et adultis aptata, immo usu instrumentorum communicationis socialis, quibus christifideles de significatione matrimonii christiani deque munere coniugum ac parentum christianorum instituantur; 2° praeparatione personali ad matrimonium ineundum, qua sponsi ad novi sui status sanctitatem et officia

As the principal canon devoted to the topic of marriage preparation, it is addressed to pastors of souls and obliges them to see that suitable formation is provided to those preparing for marriage.⁵ Pastor of souls, i.e., bishops and priests who are entrusted with the pastoral care of a community of the faithful, have the duty of ensuring that the state of marriage is valued and lived appropriately in the Catholic community. The whole community is encouraged to participate in this important task. Such participation could be furthered by enlisting the help of married couples, as well as others whose work or expertise would be useful in the process of marriage preparation.⁶

Canon 1063 does not explain in detail how pastors of souls and the community are to help those preparing to enter marriage and those who are already married. Depending on local needs and resources, different programs exist in different places and include, for example, marriage preparation programs, engaged encounters, pastoral marriage counseling, etc. The programs chosen should respond to the pastoral needs of the particular community.⁷

disponantur; 3° fructuosa liturgica matrimonii celebratione, qua eluceat coniuges mysterium unitatis et fecundi amoris inter Christum et Ecclesiam significare atque participare; 4° auxilio coniugatis praestito, ut ipsi foedus coniugale fideliter servantes atque tuentes, ad sanctiorem in dies pleniorumque in familia vitam ducendam perveniant.”

⁵ See HUELS, “Preparation for the Sacraments: Faith, Rights, Law,” 56; see also F. GAVIN, “Marriage Preparation is a Lifetime Journey,” in *Studia canonica*, 39 (2005), 184–185.

⁶ See L.A. ROBITAILLE, “Pastoral Care and Those Things which Must Precede the Celebration of Marriage (cc. 1063–1072),” in *Comm2*, 1263; see also GAVIN, “Marriage Preparation is a Lifetime Journey,” 186.

⁷ See PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 71–73; see also J.H. PROVOST, “Marriage Preparation: Canon 1063 and the *Novus Habitus Mentis*,” in J.H. PROVOST and K. WALF (eds.), *Studies in Canon Law*, presented by P.J.M. HUIZING, Louvain, Leuven University Press, 1991, 173–192.

Pope Benedict XVI stated that the goal of marriage preparation is both canonical and pastoral in nature.⁸ It is intended to prepare the couple for the proper celebration of the sacrament of marriage both spiritually and canonically: spiritually, by enabling them to appreciate the sacramental reality, and canonically, by celebrating it fruitfully and validly in accordance with the norm of law.⁹

In his Post-Synodal Apostolic Exhortation on the Sacrament of Charity *Sacramentum caritatis*, Pope Benedict XVI pointed to the need for and the implications of proper preparation for marriage celebration for the good of the spouses themselves, society, and the Church:

Given the complex cultural context which the Church today encounters in many countries, the Synod also recommended devoting maximum pastoral attention to training couples preparing for marriage and to ascertaining beforehand their convictions regarding the obligations required for the validity of the sacrament of Matrimony. Serious discernment in this matter will help to avoid situations where impulsive decisions or superficial reasons lead two young people to take on responsibilities that they are then incapable of honouring. The good that the Church and society as a whole expect from marriage and from the family founded upon marriage is so great as to call for full pastoral commitment to this particular area. Marriage and the family are institutions that must be promoted and defended from every possible misrepresentation of their true nature, since whatever is injurious to them is injurious to society itself.¹⁰

As marriage and family are the foundation of every society, couples should be helped to prepare themselves for their important role. Marriage preparation is one of the principal measures to help couples properly discern the implications of their decision to enter into marriage and family life. Pope Benedict XVI indicated that, although the purposes of marriage preparation transcend the merely juridical dimension of marriage, it

⁸ See BENEDICT XVI, allocution to the Roman Rota, 22 January 2011, in AAS, 103 (2011), 108–111, English translation in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 165, 2011, 17–20.

⁹ See A. MENDONÇA, The Relationship between Canon Law and Pastoral Care: A Brief Analysis of Benedict XVI's 2011 Allocution to the Roman Rota," in *Philippine Canonical Forum*, 13 (2011), 173.

¹⁰ BENEDICT XVI, Post-Synodal Apostolic Exhortation on the Sacrament of Charity *Sacramentum caritatis*, 22 February 2007 (=SC), in AAS, 99 (2007), 130, Vatican English version *Sacramentum caritatis*, Libreria editrice Vaticana, 2007, 30–31.

nevertheless promotes the free celebration of an authentic marriage: an exclusive and indissoluble bond of justice and love between the couple, ordered to the good of the spouses and of children, and which is raised to the dignity of a sacrament when it is celebrated between two baptized persons. This is not simply a canonical prescript but a reality that has theological, social, and cultural foundations. The arguments presented by the Pope stress the pastoral, social, and juridical nature of marriage and the importance that marriage preparation holds for a valid and fruitful celebration of marriage.¹¹

In 1992, the Catholic Bishops' Conference of Thailand issued three decrees on mixed marriage, including one specifically concerning marriages between Catholics and Buddhists.¹² In 2015, the CBCT held the First Plenary Council of Thailand, with the theme "Christ's Disciples Living the New Evangelization."¹³ Decree no. 24 of this Council focused on the family as a domestic Church:

24. "The domestic Church" is the most important starting point for the New Evangelization. The family is not just a small unit to which the Church must provide pastoral care; rather it must be the place in which Christians first learn to live the faith together in diversity. It is there that parents and the elderly pass on the faith and the culture, give good example, and provide vocational formation to their children. The Church must give great importance to preparation for family life, especially in these times when there is an increase of marriages with disparity of cult. For families in which there

¹¹ See *ibid.*, nos. 27–29, in AAS, 99 (2007), 127–130, in *Sacramentum caritatis*, 27–30.

¹² See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 11: Preparation and Investigation before Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 1, 265; *ID.*, Decree no. 12: Minimum Age for Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 2, 266; *ID.*, Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in Appendix 3, 267.

¹³ See F.X. [cardinal] KRIENSAK KOVITHAVANIJ, PRESIDENT OF THE CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Letter to the Prefect of the Congregation for the Evangelization of Peoples: Request for Approval of the Decree of the First Plenary Council of the Church in Thailand "Christ's Disciples Living the New Evangelization," 25 January 2016, in Archives of the Archdiocese of Bangkok, in Appendix 13, 285–286; CONGREGATION FOR THE EVANGELIZATION OF PEOPLES, Letter to the President of the CBCT Granting the *recognitio* of the Decree of the First Plenary Council of Catholic Church in Thailand, 2 February 2017, in *Decree of the First Plenary Council of the Catholic Church in Thailand A.D. 2015: Christ's Disciples Living the New Evangelization*, Bangkok, CBCT, 2017, 4, in Appendix 14, 287; F.X. [cardinal] KRIENSAK KOVITHAVANIJ, PRESIDENT OF THE CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Promulgation of Decree of the First Plenary Council of the Catholic Church in Thailand, A.D. 2015, 16 April 2017, in *Decree of the First Plenary Council of the Catholic Church in Thailand A.D. 2015*, 2–3, in Appendix 15, 288–289.

are sacramental impediments and improper legal form, the Church must quickly follow the process the Church has established in order to bring them back to the parochial community where they may become actively involved in the New Evangelization.¹⁴

Accordingly, because the number of the marriages between Catholics and Buddhists has increased in Thailand, the Catholic Church needs to focus on marriage preparation. When one party in the prospective marriage is unbaptized, closer attention needs to be paid to the content presented during the marriage preparation program. Catholics and Buddhists differ greatly in their respective beliefs concerning marriage; therefore, the two parties should be helped to acquire sufficient knowledge about the standpoint of the other religion on the institute of marriage and develop a sympathetic attitude towards each other's point of view.¹⁵

The pastoral experience in the Church in Thailand suggests that a good marriage preparation program must cover two specific areas: firstly, the nature of marriage, and secondly, the conditions for the valid and licit celebration of marriage. A presentation of the nature of marriage is especially important for the parties in marriages between Catholics and Buddhists and should include the following topics: the human relationship between the spouses, marriage consent, essential marriage properties of unity and indissolubility, rights and responsibilities related to conjugal sexuality, and the obligation of the Catholic party to baptize and educate children in the Catholic faith.¹⁶

¹⁴ In CATHOLIC BISHOPS' CONFERENCE OF THAILAND, *Decree of the First Plenary Council of the Catholic Church in Thailand A.D. 2015*, 26.

¹⁵ See FABC OFFICE OF THEOLOGICAL CONCERNS, "A Few Theological and Pastoral Perspectives of Inter-Faith Marriages," V. TIRIMANNA (ed.), in *FABC Papers*, no. 127 (February 2009), 42–43.

¹⁶ See CATHOLIC MISSION FOR CHRISTIAN LAITY, DESK FOR THE FAMILY, *Khrob Khrua Nan Sum Khun Lum* [Family is the Most Precious Thing], Bangkok, CBCT, 2018, 11–16; see also S. JUROD and W. KRITCHAREON (trans. and eds.), *Tad Sin Jai Rak* [A Decision to Love], Ratchaburi, Catechetical Center of Ratchaburi Diocese, 2004, 136–139; cf. T. RINCÓN-PÉREZ, "Pastoral Care and the Prerequisites for the Celebration of Marriage (cc. 1063–1072)," in *Exegetical Comm*, vol. 3, 1112 and ROBITAILLE, "Pastoral Care and Those Things which Must Precede the Celebration of Marriage (cc. 1063–1072)," 1263.

4.2 – Jurisdiction over Marriages between a Catholic and a Buddhist Party

The marriage of Catholics, even if only one party is Catholic, is governed by both divine and canon law, without prejudice to the competence of the civil authority concerning the civil aspects of the marriage.¹⁷ Consequently, marriages in which one party is Catholic and the other Buddhist, are governed by the Church legislation. Conversely, Thai civil legislation does not recognize the legal force of any religion's marriage laws.¹⁸

Because the majority of people in Thailand are Buddhists, marriages between a Buddhist and Thai Catholic are frequent. Therefore, when a Catholic decides to marry a Buddhist, the parish priest must, apart from explaining to both parties the meaning of marriage as understood in natural and ecclesiastical law, verify that the Buddhist party is actually free to marry.

In Thailand, there are many instances of prospective marriages involving a Buddhist party, previously married and divorced by civil decree, who intend to marry a Catholic in accordance to the requirements of the Catholic Church. Because of the prior marriage bond of the Buddhist party, he or she is not free to marry the Catholic party. Admittedly, in some cases the previous marriage bond could be dissolved in virtue of the privilege of the faith, thus enabling the Buddhist party to enter into a new marriage with a Catholic person. However, not all Buddhist parties are interested in presenting their marriage case to the judgment of the Church authorities, resulting in their inability to marry in the Catholic Church.

¹⁷ Cf. c. 1059. See HUELS, *The Pastoral Companion*, 203.

¹⁸ See Book V, section 1457, in K. SANDHIKSHETRIN (comp. and trans.), *The Civil and Commercial Code: Book I–VI and Glossary: Thai–English Edition*, Bangkok, Nitibannakan, 2008. See also HUELS, *The Pastoral Companion*, 204–205; H. VELARDE, “The Registration of Authority to Solemnize Marriage with the Civil Registrar General,” in *Philippine Canonical Forum*, 10 (2008), 313–320.

The Catholic party married civilly to the partner who was previously married and divorced remains in an irregular marriage situation. Consequently, some Catholics who find themselves in this situation feel that they are “separated” from the Church because, while they attend Mass regularly, they cannot receive Holy Communion. As a result, frequently they decide not to attend Church. Reinforcing their feelings of separation, some parish priests do not allow children born in these families to be baptized.

The number of Catholics living in irregular marriage situations is growing; therefore, the Catholic Church in Thailand has an urgent responsibility to address this state of affairs in order to help the Catholic spouses regularise their marital status and practice the Catholic faith in peace.

4.3 – Catechetical and Spiritual Preparation

Marriage preparation should begin with the couple being provided with general information on marriage, including the importance of the family in the Catholic community, as well as with a presentation of the rights, obligations, and responsibilities of the spouses towards each other, their children, the ecclesial community and society at large.¹⁹

4.3.1 – Duties of Pastors and Catechists

Pope John Paul II defined marriage preparation as a process with three principal stages: 1) remote preparation, involving the family, school, and parish formation groups; it begins in early childhood and continues through adolescence; 2) proximate preparation,

¹⁹ See T.P. DOYLE, “Pastoral Care and What Must Precede Celebration of Marriage (cc. 1063–1072),” in *Comm1*, 747.

for those who are intending to marry in a proximate future; and 3) immediate preparation, to ensure that the engaged couple understands their rights and obligations before they marry.²⁰

According to c. 1063, the entire Christian community has the duty to provide pastoral assistance to couples planning to marry in the Church. This task includes specific duties of pastors and catechists and falls into the three stages of the pastoral care of marriage as enumerated in the canon itself: firstly, remote preparation (c. 1063, 1°); secondly, proximate preparation (c. 1063, 2°); and finally, immediate preparation concerning details of the ceremony itself (c. 1063, 3°).²¹ Due to the fact that c. 1063, 4° concerns an ongoing support offered to the couples after the celebration of marriage, it will be discussed separately.

Although c. 1063 maintains the Pope John Paul II's distinction into the three categories of marriage preparation, it has redefined the remote and proximate preparation: some elements of proximate preparation outlined in *FC*, no. 66, are found in c. 1063, 1°, which refers to remote preparation.²²

Accordingly, remote preparation consists of providing to all Catholics some general information regarding the meaning of marriage as a natural institution and the sacrament of the Church, including the role of Christian spouses and parents. This first

²⁰ See *FC*, no. 66, in AAS, 74 (1982), 159–162, *FLANNERY2*, 869–871. See also L.A. ROBITAILLE, “Pastoral Care and Those Things which Must Precede the Celebration of Marriage (cc. 1063–1072),” in *Comm2*, 1263; RINCÓN-PÉREZ, “Pastoral Care and the Prerequisites for the Celebration of Marriage (cc. 1063–1072),” 1117–1119.

²¹ See RINCÓN-PÉREZ, “Pastoral Care and the Prerequisites for the Celebration of Marriage (cc. 1063–1072),” 1118; see also F. GAVIN, “Marriage Preparation is a Lifetime Journey,” in *Studia canonica*, 39 (2005), 187.

²² Cf. c. 1063, nos. 1–3. See *FC*, no. 66, in AAS, 74 (1982), 159–162, *FLANNERY2*, 869–871.

stage of marriage preparation takes place within the family, in school, and through specific Catholic information programs during early childhood and adolescence.²³

Proximate preparation, involves the personal preparation of those who are preparing to marry in the near future. They are to take part in a specifically premarital catechesis which encourages them to strive for holiness and to embrace the obligations of their new state of life.²⁴

Immediate preparation is the final stage before the wedding takes place. Here, the couples are to deepen their knowledge of the mystery of Christ and the Church, the meaning of grace, the responsibilities of the couples in a Christian marriage, and be introduced into the liturgical aspects of the celebration.²⁵

In the Church in Thailand, the remote preparation consists of a standard program of instruction about marriage given to Catholic students and adults as part of their catechetical programs. Decree no. 9 of the CBCT, of 1992, refers to the organization of the formation and education in the Catholic faith in Catholic schools:

In accordance with the prescriptions of canon 804, §1, the Catholic Bishops' Conference of Thailand hereby decrees that to provide for the formation and education in the Catholic religion in Catholic schools, the following provisions are to be observed: 1) Catholic school that have priests or religious on the staff must see that the same priests or religious carry out the formation and instruction in the Catholic faith, and those responsible for the school take care that capable people teach the Catholic students regularly. 2) Regarding the qualities of the capable lay teachers who teach the Catholic religion in the school must possess the certificate from the Catechetical Centre, and they must be outstanding in true doctrine and uprightness of life. 3) Those responsible for the school are to arrange regular classes of religious instruction for their Catholic students and for non-Catholic students, who freely request it. 4) Those responsible are to teach all

²³ See GAVIN, "Marriage Preparation is a Lifetime Journey," 186.

²⁴ See *ibid.*, 189–191.

²⁵ See RINCÓN-PÉREZ, "Pastoral Care and the Prerequisites for the Celebration of Marriage (cc. 1063–1072)," 1118; see also ROBITAILLE, "Pastoral Care and Those Things which Must Precede the Celebration of Marriage (cc. 1063–1072)," 1263. Cf. *FC*, no. 66, in *AAS*, 74 (1982), 159–162, *FLANNERY2*, 869–871; GAVIN, "Marriage Preparation is a Lifetime Journey," 191–192.

their students in the spirit of the Gospel and in accord with the doctrine of the Magisterium of the Church.²⁶

The Catholic Church in Thailand has catechetical programs which include specific instruction about marriage, led by priests, religious, and lay catechists, for Catholic students studying at Catholic schools.²⁷

As it has been indicated in Chapter Three of the thesis, there are many Thai Catholic children attending public schools due to the lack of Catholic schools in their neighbourhood or the high cost of education in Catholic schools, which as private institutions charge their students with the tuition fees, unlike the public schools which are funded by the government.²⁸ Therefore, for Catholic students who attend public schools, the catechetical instruction is organized by parishes, on weekends or during the summer vacation months.

Unfortunately, even though parishes offer catechetical programs, many public school students are not interested in the specific marriage oriented programs because marriage is not a proximate reality for them, as they rather tend to be focussed on qualifying for entrance into the top universities, and the Buddhist milieu in which they live has little concern for marriage.

From the analysis of the pastoral reality regarding marriage preparation at an early age, a recommendation can be proposed, namely that the Catholic Church encourage

²⁶ CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 9: Catholic Religious Education in Schools, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 12, 284.

²⁷ Cf. CATHOLIC COMMISSION FOR CATECHETICAL EDUCATION (THAILAND), *Thai Directory for Catechesis*, Bangkok, Catholic Commission for Catechetical Education (Thailand), 2014, nos. 125–140, 99–109; CATECHETICAL CENTER OF BANGKOK, *The Role of the Priests in Catechesis*, Bangkok, Catechetical Center of Bangkok, 2006, chapter two, no. 3, 13–14.

²⁸ The average income in Thailand in 2019 is 26,946 Thai baht per month, according to National Statistical Office (<http://www.nso.go.th/sites/2014>), which is equivalent to 885.65 USD (1 USD = 30.42 THB on October 4, 2019). The tuition fees for private schools start at 10,000–15,000 Thai baht per semester, whereas public schools do not charge for the tuition fees.

every parish to focus on Catholic students who attend public schools, and design effective ways of reaching them with catechesis on marriage, through a variety of activities and courses aimed precisely at young Catholics living in a largely non-Christian environment.²⁹ Each parish should regularly arrange marriage courses and related parish activities for young Catholics on topics such as: unity and indissolubility of marriage, rights and responsibilities related to conjugal sexuality, the faith within Thai culture. The parish could invite experts from the Diocesan Commission for the Family to youth. In this way, each parish could provide formation in marriage preparation for young Catholics living in the Buddhist milieu.

According to decree no. 9 of the CBCT,³⁰ Catholic schools must provide instruction on the doctrine of the sacraments including marriage. The decree has four major concerns.

First of all, priests or religious on staff must ensure that the school has classes on the Catholic faith which are taught by capable people. Secondly, lay teachers must hold the certificate from the Catechetical Center or hold the appropriate degree from Saengtham College,³¹ and must understand Catholic doctrine and live according to Catholic Church teaching. It is crucial that lay teachers understand the Catholic teaching on marriage and the challenge faced by interfaith couples. Thirdly, the school must provide regular religious classes which non-Catholic students may request to join.

²⁹ See CATHOLIC MISSION FOR CHRISTIAN LAITY, DESK FOR THE FAMILY, *Guidelines for Marriage Preparation (Remote and Proximate)*, Bangkok, CBCT, 2014, 121–136.

³⁰ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 9: Catholic Religious Education in Schools, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 12, 284.

³¹ Saengtham College is the institution for lay formation in Catholic philosophy, theology, and catechetical studies.

Fourthly, the teachers must be faithful to the Magisterium and teach with authentic gospel joy.³²

The second level, the proximate preparation, concerns the personal preparation of couples who are planning to marry. In Thailand, the proximate marriage preparation is the responsibility of the parish priest where the Catholic party has a domicile.³³ Customarily marriage preparation is also offered in the parish where the marriage will take place which affords couples a choice where to take the program. The program should include catechesis on marriage and family.³⁴ In particular, the instruction at this level is intended to strengthen and nourish the faith of the Catholic future spouse and also to inform the non-Catholic party about the promises to be made by and obligations of the Catholic party.³⁵

Every diocese in Thailand has a marriage preparation program. For example, the Archdiocese of Bangkok has provided pre-nuptial courses to instruct couples at the Diocesan Center³⁶ and at Holy Redeemer Church,³⁷ both of which are located in downtown Bangkok. These courses cover Catholic teaching on marriage and family, the basic regulations concerning Thai civil marriage, the liturgical celebration of the

³² See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 9: Catholic religious education in schools, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 12, 284.

³³ “(3) Both parties are to be instructed about the purposes and essential properties of marriage by the parish priests or the persons duly delegated” (CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in Appendix 3, 267).

³⁴ See FABC OFFICE OF THEOLOGICAL CONCERNS, “A Few Theological and Pastoral Perspectives of Inter-Faith Marriages,” 45.

³⁵ Cf. *ibid.* See C. DEVADASS, “The Pastoral Response to the Church to the Challenges of Inter-Faith Marriages,” in *FABC Papers*, no. 118, July 2006, 45.

³⁶ See Marriage Preparation Courses and Schedule for 2019 at the Diocesan Center, https://m.facebook.com/familybkk56/?ref=page_internal&mt_nav=0 (4 October 2019), in Appendix 16, 290–291.

³⁷ See <http://www.holyredeemberbangkok.net/home/index.php/our-ministry/pre-marriage-sem> (4 October 2019).

sacrament, and the family planning. Normally, participation in these courses is required for couples who marry at any of the downtown parishes of the Archdiocese of Bangkok.

As a result, the marriage preparation program in downtown Bangkok became well-known and numerous couples from various parishes attend the program there. However, it seems that the program needs to be more protracted in time, cover more material, and provide more discussion time for the couples. Currently, the whole course takes only 6 hours of instruction, distributed over two Sundays. The duration should be increased to allow some ample time for the couples to discuss between themselves the presented material and also an opportunity to ask questions which may have come up in the discussion. Furthermore, due to the increasing number of Catholic-Buddhist marriages, a section on inter-religious issues facing the couples should be added to help them understand and respect each other's faith and religious practices.

In practical terms, the current pastoral policy of the Church in Thailand postulates that the Buddhist spouse should not ask the Catholic spouse to participate in *Tak Bat* because this is a specifically Buddhist religious practice. On the other hand, the Catholic spouse might invite the Buddhist spouse to be present at the liturgy of the Church.³⁸ This strategy, however, provokes a question of reciprocity of the approach. To an external, especially a Western observer, this may look as an example of uneven treatment of a Catholic and a Buddhist spouse when there is a question of honoring their respective faith requirements. Nevertheless, the approach of the Church in Thailand is based on the understanding of the tenets of the Buddhist religion with regard to concrete obligations of

³⁸ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, A Pastoral Letter Explaining the Guidelines for Catholics about Their Participation in Liturgies of Other Religions, 3 April 1994, in Appendix 19, 298–299; see also FABC OFFICE OF THEOLOGICAL CONCERNS, “A Few Theological and Pastoral Perspectives of Inter-Faith Marriages,” 48.

a Buddhist follower. In Buddhism, generally there is no prohibition with regard to attending other faiths' ceremonies; the question of possible indifferentism is not raised within the Buddhist milieu in Thailand. Indeed, this is the experience of the Church in Thailand that normally³⁹ Buddhists are open to other religious experiences and participating in a Catholic ceremony does not bring any adverse consequences for their official standing in the Buddhist community. Conversely, Catholics are morally obliged to avoid situations that could endanger their faith; indeed, in accordance with c. 1125, 1°, the Catholic party must declare that he or she is ready to remove the dangers of falling away from practicing the Catholic faith. In the Thai context, attending *Tak Bat* ceremony could send a signal that might be understood by the family of the Buddhist spouse as an attitude of indifference regarding the Catholic belief and provoke attempts to influence the faith of the Catholic party or oppose the baptism and Catholic education of children to be born in the marriage.

In other parishes in the Archdiocese of Bangkok as well as in other dioceses, marriage preparation is the responsibility of the local parish priest because couples are unable to travel the distances required to participate in the centralized programs. Nevertheless, the Archdiocese of Bangkok provides general instruction on Catholic marriage preparation programs for priests of both the Bangkok Archdiocese and other dioceses in Thailand.⁴⁰ The CBCT, through the Desk for the Family of the Catholic

³⁹ This generalization admits, however, exceptions of possible strong opposition to the Catholic faith on the part of a Buddhist spouse and his/her family. These situations are addressed specifically in the thesis; however, they do not invalidate the policy of the Catholic Church in Thailand which is based ultimately on the freedom of the Buddhist party who is *invited* to participate in the Catholic ceremony.

⁴⁰ See ARCHDIOCESE OF BANGKOK, *Instruction for Catholic Family*, Bangkok, Archdiocese of Bangkok, 2010, vols. 1–5.

Mission for Christian Laity, offers guidelines for marriage preparation for all priests.⁴¹ However, it is observed that many parish priests prepare the couples solely on the basis of their own personal knowledge, interest, and experience because they find that the instructions and guidelines provided to them contain just too much information to be assimilated. Furthermore, some of the content is perceived as too difficult in order to be explained effectively to the couples.

Consequently, another recommendation can be proposed that every diocese should organize marriage preparation programs either in their respective diocesan centers or in one of the parishes in each deanery. The parish-based programs would be more effective in the case of parishes located at a distance from the diocesan center. The Catholic Commission for the Family of each diocese should review marriage preparation courses regularly and update them as required.⁴²

The third level of the marriage preparation process leads to a fruitful liturgical celebration of marriage.⁴³ A beautiful liturgical celebration should increase the faith of all Catholics present and may spark interest from non-Catholics. A positive experience at this stage may lead participants who have been lax to a more regular practice of their faith.⁴⁴ In Thailand, Buddhists generally enjoy attending Catholic wedding ceremonies because of the splendor of the liturgy and the aesthetics of the church buildings.

⁴¹ See CATHOLIC MISSION FOR CHRISTIAN LAITY, DESK FOR THE FAMILY, *Guidelines for Marriage Preparation (Remote and Proximate)*, Bangkok, CBCT, 2014.

⁴² See FABC OFFICE OF THEOLOGICAL CONCERNS, “A Few Theological and Pastoral Perspectives of Inter-Faith Marriages,” 60.

⁴³ See HUELS, *The Pastoral Companion*, 207.

⁴⁴ See FABC OFFICE OF THEOLOGICAL CONCERNS, “A Few Theological and Pastoral Perspectives of Inter-Faith Marriages,” 61; see also HUELS, “Preparation for the Sacraments: Faith, Rights, Law,” 57.

Therefore, engaged couples are generally willing to attend the marriage preparation program and cooperate with the pastor in preparation for the wedding ceremony.⁴⁵

The three levels of preparation for marriage need to be followed by ongoing assistance to married couples. Not only the pastors of souls but also the Catholic community as such, should support the couples by providing necessary resources and opportunities for renewal.⁴⁶ One possible way to fulfill this obligation is forming Catholic groups that would accompany the couple after their marriage celebration, helping them understand better the reality of marriage and of family. This is needed especially when the parties come from different religious traditions.⁴⁷ A Catholic-Buddhist couple requires special assistance regarding understanding and coping with differences between their religious practices.

In this regard, the Church in Thailand is facing a particular challenge. Even though the Catholic party may experience difficulties living with the Buddhist party and their family, normally they do not ask for help from either their parish priest or a catechist. This reluctance may be due to a popular perception that a celibate priest or a catechist may not be sufficiently prepared to respond to situations which in many regards

⁴⁵ See CATHOLIC MISSION FOR CHRISTIAN LAITY, DESK FOR THE FAMILY, *Guidelines for Marriage Preparation (Immediate)*, Bangkok, CBCT, 2014, 113–114.

⁴⁶ Cf. c. 1063, 4°. See CATHOLIC MISSION FOR CHRISTIAN LAITY, DESK FOR THE FAMILY, *Guidelines for Those Who Are Married (Continued Pastoral Care after Marriage)*, Bangkok, CBCT, 2014, 12–27; see also DOYLE, “Pastoral Care and What Must Precede Celebration of Marriage (cc. 1063–1072),” 749.

⁴⁷ Cf. FABC OFFICE OF THEOLOGICAL CONCERNS, “A Few Theological and Pastoral Perspectives of Inter-Faith Marriages,” 61. These groups organize programs and activities in every diocese for supporting married couples. For example, every two months the Catholic Commission for the Family of Archdiocese of Bangkok organizes a “Seminar of Reactivity of Family Life” for Catholic couples and Catholic-Buddhist couples, see https://m.facebook.com/familybkk56/?ref=page_internal&mt_nav=0 (4 October 2019), in Appendix 11, 283. The Catholic Commission for the Family of Chantaburi diocese organizes an activity called “Value and Dignity of Human Life,” see <https://www.facebook.com/sorchorkorchan/> (4 October 2019). Other dioceses have similar programs and activities.

touch on the very practical aspects of married life. The apostolic exhortation *Familiaris consortio* stressed that the pastoral care of the family should involve “[...] the proper preparation of all those who will be more specifically engaged in this kind of apostolate. [...] [F]ormation courses [...] should be encouraged, sustained, increased in number, and of course [...] also open to lay people who intend to use their professional skills (medical, legal, psychological, social or educational) to help the family.”⁴⁸ The same idea finds its place in the apostolic exhortation *Amoris laetitia* in which it is indicated that the worldwide pre-synodal consultation made “[...] clear that ordained ministers often lack the training needed to deal with the complex problems currently facing families.”⁴⁹ The participants of the consultation therefore

[...] insisted on the need for training lay leaders who can assist in the pastoral care of families, with the help of teachers and counsellors, family and community physicians, social workers, juvenile and family advocates, and drawing upon the contributions of psychology, sociology, marital therapy and counselling. Professionals, especially those with practical experience, help keep pastoral initiatives grounded in the real situations and concrete concerns of families.⁵⁰

Therefore, the Catholic Church in Thailand constantly seeks efficient ways of encouraging the Catholic-Buddhist couples who experience difficulties in their married life to benefit from various initiatives, including attending meetings set up by groups of professionals that can assist them and provide information or activities⁵¹ which help in

⁴⁸ *FC*, no. 70, FLANNERY2, 875, “Considerable help can be given to families by lay specialists (doctors, lawyers, psychologists, social workers, consultants, etc.) who either as individuals or as members of various associations and undertakings offer their contribution of enlightenment, advice, orientation and support” (ibid., no. 75, 879–880).

⁴⁹ *AL*, no. 202, 173–174.

⁵⁰ Ibid., no. 204, 175–176.

⁵¹ Such activities could include facilitated discussions. For example, see “Rights and Duties of Parents to their Children,” in JUROD and KRITCHAREON (trans. and eds.), *Tad Sin Jai Rak*, 108–117.

understanding and accepting the reality of their marriage as well as the differences between their religious practices.⁵²

The parish priests and catechists who deal with Catholic-Buddhist couples should have reasonable knowledge and understanding of Buddhist religion and traditions, as well as Thai social customs regarding marriage. In the multi-religious context of Thailand, in order to facilitate dialogue, the local Church must foster an understanding of the Catholic faith, Buddhism, and Thai marriage traditions for those who will be working with Catholic-Buddhist couples and their families. In such a context, the Church needs to promote a knowledge of the traditions of other religions during the training and formation of seminarians as well as ongoing formation of all priests to enable them to assist in a better way the families made of persons of different religious upbringing.⁵³ Another helpful initiative of the Catholic Church in Thailand could be a fully developed course on the Buddhist religion and traditions as they relate to Catholic practices, especially those associated with marriage. Such a course, developed by those who have thorough knowledge of and experience with marriages between Catholics and Buddhists and aimed especially at a comparison of the understanding of marriage in each religious tradition, could be offered on a regular basis to priests and catechists.⁵⁴

⁵² See CATHOLIC MISSION FOR CHRISTIAN LAITY, DESK FOR THE FAMILY, *Khrob Khrua Nan Sum Khun Lum*, 1–15; see JUROD and KRITCHAREON (trans. and eds.), *Tad Sin Jai Rak*, 129–144; see also GAVIN, “Marriage Preparation Is a Lifetime Journey,” 187; M.G. LAWLER, “A Marital Catechumenate: A Proposal,” in *INTAMS*, 13 (2007), 161–176.

⁵³ See S. ARIKASARNY, “Challenges and Opportunities of Interreligious Dialogue in Interfaith Marriages: An Asian Perspective,” in *INTAMS*, 13 (2007), 196–197.

⁵⁴ Cf. FABC OFFICE OF THEOLOGICAL CONCERNS, “A Few Theological and Pastoral Perspectives of Inter-Faith Marriages,” 61–62.

4.3.2 – Reception of Confirmation, Penance and Eucharist

A Catholic is to receive the sacrament of confirmation before marriage if this can be arranged by the local church without a serious inconvenience;⁵⁵ the lack of a minister would be an example of a serious inconvenience.⁵⁶ If the sacrament of confirmation cannot be administered before the marriage ceremony, then the local ordinary may administer the sacrament of confirmation after it.⁵⁷

Confirmation is the second sacrament of initiation. Canon law states that confirmation should be conferred at the age of discretion, about seven years of age.⁵⁸ The bishop is the ordinary minister of confirmation. If he personally cannot administer confirmation to the people in his diocese, he may delegate the faculty to confirm to specific presbyters.⁵⁹ Persons, who are seven or older but lack the use of reason due to a developmental disability, can and should be confirmed. Suitable preparation for confirmation and renewal of baptismal promises are necessary for adults to receive the sacrament licitly.⁶⁰ Liturgical law leaves it to the conference of bishops to determine more precisely the meaning of “suitable instruction,” especially in the case of children; the principal responsibility for a child’s preparation is assigned to the parents.⁶¹

⁵⁵ See c. 1065, §1: “If they can do so without serious inconvenience, Catholics who have not yet received the sacrament of confirmation are to receive it before being admitted to marriage.”

⁵⁶ See RINCÓN-PÉREZ, “Pastoral Care and the Prerequisites for the Celebration of Marriage,” 1124.

⁵⁷ See HUELS, *The Pastoral Companion*, 211.

⁵⁸ Cf. c. 891: “The sacrament of confirmation is to be conferred on the faithful at about the age of discretion unless the conference of bishops determines another age or there is danger of death or in the judgement of the minister a grave cause urges otherwise.”

⁵⁹ Cf. c. 882: “The ordinary minister of confirmation is a bishop; a presbyter provided with this faculty in virtue of universal law or the special grant of the competent authority also confers this sacrament validly.”

⁶⁰ Cf. c. 889, §2: “Outside the danger of death, to be licitly confirmed it is required, if the person has the use of reason, that one be suitably instructed, properly disposed and able to renew one’s baptismal promises.”

⁶¹ Cf. Rite of Confirmation, no. 12: “[...] The conference of bishops has responsibility for determining more precisely the catechetical resources for the preparation of candidates for confirmation,

Our study reveals that, although a marriage between a Catholic and a Buddhist is not a sacrament, the Catholic Church in Thailand should treat the spiritual preparation for this marriage in the same manner as for the sacrament of marriage for the sake of the Catholic party. Because the majority of marriages for Catholics in Thailand are to a Buddhist partner, the Catholic party needs to be aware of the spiritual dangers which may arise from living and raising children in an environment which may not encourage the practice of the Catholic faith.

In fact, many Thai Catholics receive the sacrament of baptism as infants and then study at a public school or live in a Buddhist community making it difficult for them to be instructed about and receive the sacrament of confirmation. When these Catholics decide to marry, the parish priest has the additional responsibility to prepare them to receive the sacrament of confirmation.

For pastoral reasons, the majority of parish priests in Thailand prefer that the sacrament of confirmation be administered to the Catholic spouse prior to the marriage celebration, in accord with the prescript of c. 1065, §1. Nevertheless, it is sometimes inconvenient to wait for the diocesan bishop to confer the sacrament of confirmation and it is also not practical for a parish priest to submit a specific request to the diocesan bishop for each confirmation. Although canon law states that the diocesan bishop is the ordinary minister of confirmation, a priest who has been mandated by the diocesan bishop may administer the sacrament of confirmation to a person entering into marriage. According to canon 884, §1, the diocesan bishop may delegate the faculty of

especially children [...]” (CANADIAN CONFERENCE OF CATHOLIC BISHOPS, *Rite of Confirmation: Ritual and Pastoral Notes*, Ottawa, CCCB, Canada, 1987). See HUELS, “Preparation for the Sacraments: Faith, Rights, Law,” 48–49.

confirmation to specified priests,⁶² which would allow a priest (preferably a parish priest) to administer confirmation as part of marriage preparation for those who are entering into marriage in the proximate future.

It would be advisable that the CBCT determine the nature of the instruction required for adults who are about to marry an unbaptized person and leave the preparation of the future spouses to their parish priests. In particular, the parish priest would offer suitable instruction to the Catholic spouse before confirming him or her prior to the marriage celebration. Canon law does not require a lengthy program of instruction, service projects, retreats, or other specific means of catechesis and formation.⁶³ My suggestion is that the parish priest alone be delegated to prepare the Catholic party and administer the sacrament of confirmation, while another priest may prepare the couple for marriage. Additionally, such a decree of the CBCT might also serve to remind Thai Catholics of the need to become “adults in the faith” by being confirmed before entering into marriage, practicing the Catholic faith and so become witnesses to the faith among the Buddhists within the family setting as well as to the wider Thai community.

Canon 1065, §2 stipulates that in order for the sacrament of marriage to be fruitful, Catholics should be urged to approach the sacraments of penance and Holy Eucharist.⁶⁴ The Catholic party cannot be compelled to receive these sacraments before marriage, but he or she should be encouraged to do so by being reminded that one should

⁶² See c. 884, §1: “The diocesan bishop is to administer confirmation personally or see that it is administered by another bishop, but if necessity requires, he may give the faculty to administer this sacrament to one or more specified presbyters.” Cf. c. 882: “The ordinary minister of confirmation is the bishop; a presbyter who has this faculty by virtue of either the common law or a special concession of competent authority also confers this sacrament validly.”

⁶³ See HUELS, “Preparation for the Sacraments: Faith, Rights, Law,” 50.

⁶⁴ Cf. c. 1065, §2: “It is strongly recommended that those to be married approach the sacrament of penance and the Most Holy Eucharist so that they may fruitfully receive the sacrament of marriage.” See also HUELS, *The Pastoral Companion*, 211.

be in the state of grace at the time of the liturgical celebration of marriage in order to receive its spiritual fruits. If the Catholic party is to receive Holy Communion at a Mass before or after the marriage ceremony, he or she is obliged to confess any grave sins which have not already been remitted or confessed in an individual confession.⁶⁵ Even if there is no grave sin involved, celebrating the sacrament of penance before a marriage ceremony is a commendable form of spiritual preparation, as is participation in the Eucharist and reception of Holy Communion afterward.⁶⁶

The pastoral experience of many priests in Thailand tells that the Catholic party receives the sacrament of penance during the week prior to the wedding ceremony, usually when the engaged couple have their wedding rehearsal. As not all engaged Catholics regularly go to confession or participate in the Eucharist, the Church should recommend doing so before entering into marriage as the means of spiritual preparation. If possible, the recommendation to go to confession, participate in the Mass, and receive Communion could also be extended to the family of the Catholic party.⁶⁷

4.4 – Suggestions for a Revision of Pre-Marital Investigation Procedure in Thailand

4.4.1 – General Principles of Pre-Marital Investigation

Canon law requires that a number of legal prerequisites be fulfilled before a marriage is celebrated. Specifically, that both parties are free to marry and there is

⁶⁵ Cf. c. 988, §1: “A member of the Christian faithful is obliged to confess in kind and number of grave sins committed after baptism and not yet remitted directly through the key of the Church nor acknowledge in individual confession, of which the person has knowledge after diligent examination of conscience.”

⁶⁶ See RINCÓN-PÉREZ, “Pastoral Care and the Prerequisites for the Celebration of Marriage,” 1124; see also PAPALI, Preparation a Necessary Requisite for Marriage, 157–159.

⁶⁷ See Cf. FABC OFFICE OF THEOLOGICAL CONCERNS, “A Few Theological and Pastoral Perspectives of Inter-Faith Marriages,” 61.

nothing preventing its valid or licit celebration. Therefore, a pre-marital investigation following the principles of cc. 1066–1072 must be conducted.⁶⁸

Pope Benedict XVI highlighted that the pre-marital investigation is one of the principal means for ascertaining the preparedness and suitability of a couple intending to marry.⁶⁹

This examination has a principally juridical purpose: to judge that nothing is opposed to the valid and licit celebration of marriage. To say that it is juridical is not to say that it is formalistic, as if it were a bureaucratic task consisting in filling out a form based on the answers to set questions. It is rather a unique pastoral event – to be valued for all the seriousness and attention that it demands – in which, through a dialogue full of respect and cordiality, the pastor tries to help the person seriously to place himself before the truth about himself and his human and Christian vocation to marriage. In this case the dialogue, always conducted with man and woman separately – without diminishing the importance of other conversations with the couple – requires a climate full of sincerity in which there must be an emphasis on the fact that those entering into the contact are the ones primarily concerned the primarily obliged in conscience to celebrate a valid matrimony.⁷⁰

The pre-marital investigation has, therefore, a twofold purpose: to point out any invalidating or disqualifying factors that would prevent the licit and valid celebration of

⁶⁸ See c. 1066: “Before marriage is celebrated, it must be evident that nothing stands in the way of its valid and licit celebration;” c. 1067: “The conference of bishops is to issue norms concerning the examination of the parties, and the marriage banns or other appropriate means for carrying out the necessary inquiries which are to precede marriage. The pastor can proceed to assist at a marriage after such norms have been diligently observed;” c. 1068: “Unless contrary indications are present, in danger of death, if other means of proof cannot be obtained, it is sufficient that the parties affirm – even under oath, if the case warrants it – that they have been baptized and that they are not held back by any impediment;” c. 1069: “All the faithful are obliged to reveal any impediments they are aware of to the pastor or to the local ordinary before the celebration of marriage;” c. 1070: “If someone other than the pastor who is to assist at the marriage has conducted the investigations, that person is to notify the pastor of the results as soon as possible through an authentic document;” c. 1071, §1: “Except in case of necessity, no one is to assist at the following marriages without the permission of the local ordinary: 1° the marriage of transients, 2° a marriage which cannot be recognized or celebrated in accord with the norm of civil law, 3° a marriage of a person who is bound by nature obligations toward another party or toward children, arising from a prior union, 4° a marriage of a person who has notoriously rejected the Catholic faith, 5° a marriage of a person who is bound by a censure, 6° a marriage of a minor child when the parents are unaware of it or are reasonably opposed to it, 7° a marriage to be entered by means of a proxy, mentioned in can. 1105; §2: The local ordinary is not grant permission for assisting at the marriage of a person who has notoriously rejected the Catholic faith unless the norms of can. 1125 have been observed, making any necessary adaptations;” c. 1072: “Pastors of souls are to take care to prevent youths from celebrating marriage before the age at which is usually contracted in accord with the accepted practice of the region.”

⁶⁹ See MENDONÇA, “The Relationship between Canon Law and Pastoral Care,” 178.

⁷⁰ BENEDICT XVI, allocution to the Roman Rota, 22 January 2011, in AAS, 103 (2011), 111, English translation in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 165, 2011, 19.

marriage, and to encourage the couple to reflect upon their responsibility before they contract a marriage. This is first and foremost the responsibility of the couples themselves who plan to celebrate their marriage in the Church. For their part, those who prepare couples for marriage must be aware of these objectives of the pre-marital investigation. The pre-marital investigation is not only a formality or a purely legal requirement; it is meant to bring about the valid and fruitful celebration of the marriage.⁷¹

Consequently, the purpose of the pre-marital investigation is to ensure that the marriage be validly and licitly celebrated as stipulated in c. 1066. This examination of the couple serves to help the parish priest reach moral certitude that the parties are free to marry by establishing, firstly, that both parties have no impediments to or prohibitions against the marriage; secondly, that both parties are capable to exchange a valid marriage consent (especially, that they are not compelled by force or great fear to marry; cf. cc. 125, §§1–2, c. 1103); and thirdly, that both parties understand the nature and obligations of the married state and accept these obligations.⁷² This information will be recorded and an appropriate file kept in the parish archives. In Thailand there is a uniform questionnaire for conducting the investigation, prescribed by the Bishops' Conference of Thailand.⁷³

⁷¹ See MENDONÇA, “The Relationship between Canon Law and Pastoral Care,” 179; see also E. GARCIA, “The Pre-Matrimonial Investigation,” in *BEF*, 794 (1996), 271–273.

⁷² See DEEPA, “The Importance of the Pre-Nuptial Enquiry according to *CIC/83*, c. 1067 and *CCEO*, c. 784 in the Kerala Context,” in *Iustitia*, 4 (2013), 124.

⁷³ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Pre-Marital Investigation Form, in Appendix 4, 268–272.

4.4.2 – Revision of the Pre-Marital Investigation Form

The Church in Thailand is currently using the Pre-marital Investigation Form,⁷⁴ in accordance with Decree no. 11 of the CBCT, promulgated in 1992. Many parish priests desire that the CBCT revise and update the questionnaire because they find some of its questions unduly complicated and impractical for the present day. The form is also missing questions which would be helpful in the investigation. Therefore, it seems advisable, and indeed much needed, to revise the questionnaire,⁷⁵ in order to guarantee that it fulfills its purpose, contributing meaningfully to the task of establishing that there is nothing preventing the licit and valid celebration of the marriage. Mindful of increased protection of personal sensitive data in various civil jurisdictions, one has to stress on this occasion that completing of the questionnaire of the pre-marital investigation is not intended to compromise the privacy of the couple who are being prepared for marriage nor is it simply a formal procedure, as some might think; rather, it ensures the right of the couple to have their marriage celebrated properly and validly in the Church.⁷⁶

The following section will discuss the two versions of the form, in Appendix 4 and Appendix 5, and the proposed changes. The first category of proposed modifications concerns eliminating two questions included in the current version of the pre-marital investigation form.⁷⁷ First, Question no. 12 on the current form concerns any previous

⁷⁴ See *ibid.*

⁷⁵ As a result of this study, I began the work of revising the existing marital investigation form in view of my own experience helping priests to complete the form. I hope to submit the draft of the revised form to the CBCT for their approval in the proximate future.

⁷⁶ See MENDONÇA, “The Relationship between Canon Law and Pastoral Care,” 174; see also E. GARCIA, “Publication of a Marriage,” in *BEF*, 814 (1999), 590–596.

⁷⁷ See P. BOONPHAO, A Revised Pre-Marital Investigation, in Appendix 5, 273–275.

engagement which has no bearing on the validity of the marriage being investigated.⁷⁸ Second, Question no. 15 on the current form asks if either party has lived at a given address for longer than 6 months: for the bride after completing 12 years of age and for the groom after completing 14 years of age.⁷⁹ This information is no longer useful or practical because people in Thailand more readily than ever move from one place to another, and, after all, this information has no direct bearing on the question of the validity of prospective marriage.

The second category of modifications is additional questions which should be included in the revised form. Only one new question is proposed, Question no. R21:⁸⁰ “Have you ever suffered a breakdown, or been treated by a doctor for mental or nervous illness?” Society has come to the realization that mental issues may adversely affect a person’s capacity for marriage.

The third category of modifications contains questions which need to be reworded for the sake of clarity. For example, the technical language on the impediments of consanguinity and affinity found in Question no. 18 is difficult to explain to a couple. The revised form has Question no. R19⁸¹ in its place. The revised wording clarifies these

⁷⁸ Question no. 12: “Have you previously been engaged to somebody else? () Yes () No. If yes, how was it arranged? () ecclesiastical ceremony () traditional ceremony () civil ceremony Has the engagement been called off? () Yes () No. If yes, how was it settled? () With acknowledgement of the parish priest () With the acknowledgement of both families.”

⁷⁹ Question no. 15: “After you were 14 years old (the groom), or 12 years old (the bride), did you stay anywhere longer than 6 months? () Yes () No. If yes, where did you stay?”

⁸⁰ For the sake of clarity, question numbers on the revised form will be referred to as “R#”.

⁸¹ Question no. 18: “Are you related in any way to your spouse?/ If yes, in what relation?/ () Consanguinity: Direct line/the degree of direct line/ () Consanguinity: Collateral line/the degree of collateral line/ () Affinity: Direct line/the degree of direct line/ () Legal relative (adopted child, foster sibling)/ Direct line () Collateral line ()/ the degree of direct line or collateral line.” Question no. R20 has the following: “Are you related to your intended spouse?/ A) by blood/ B) by valid marriage to one of his relatives/ C) by invalid marriage to one of his relatives/ D) by legal adoption.”

marriage impediments in such a way that the impediments may be more easily explained to and understood by the couple.

The fourth category contains a number of questions which will be retained in their present form in the revised questionnaire.

The revised version of the form that I suggest to be proposed to the CBCT, with its clarified questions will help the person involved in preparing couples for marriage to have a better understanding of the particular questions. The declarations and promises of the Catholic party⁸² as well as the certification of the free marital status of the non-Catholic⁸³ are unchanged from the 1992 version of the form.

Needless to say, the questionnaire can only be revised by the conference of bishops,⁸⁴ therefore, the draft of the revised questionnaire will have to be submitted to the CBCT for approval by a formal decree. This process will take time and the new questionnaire cannot be used until then.

4.5 – Guidelines for the Celebration of a Disparity of Worship Marriage and the Thai Wedding Ceremony

A Catholic who marries an unbaptized person has a right to petition the local ordinary for a dispensation from the canonical form.⁸⁵ However, if the canonical form is

⁸² See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, A Vow of a Catholic Who Marries a Non-Catholic, Bangkok, CBCT, 1992, in Appendix 6, 276.

⁸³ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Certification of the Status of the Non-Catholic, Bangkok, CBCT, 1992, in Appendix 7, 277.

⁸⁴ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 11: Preparation and Investigation before Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 1, 265.

⁸⁵ See DOYLE, "Mixed Marriages (cc. 1124–1129)," 805.

observed, the marriage can still be celebrated in a Catholic Church but must be celebrated outside a Mass.⁸⁶

4.5.1 – Matrimony between a Catholic and a Buddhist

Traditionally in Thailand, a marriage between a Catholic and a Buddhist is celebrated within a Mass at the parish church. All the guests, including the Buddhist's family attend the Mass as a sign of honouring the couple. Numerous priests believe that by allowing this form of celebration of marriage, the Catholic Church exposes Buddhists to Catholic liturgy which in turn may benefit them spiritually.

On 25 May 2018, the Secretary of the Commission for the Liturgy of the CBCT, Fr. Antonio Valsecchi, OFM wrote a letter to the Prefect of the Congregation for Divine Worship and the Discipline of the Sacraments, Robert Card. Sarah,⁸⁷ requesting clarification of liturgical law concerning the celebration of a marriage within the Mass when one party is not baptized. The Congregation's Secretary, Archbishop Arthur Roche replied in a letter dated 17 July 2018 and addressed to the Cardinal Archbishop of Bangkok, F.X. Kriengsak Kovithavanij⁸⁸ and explained that a marriage between a Catholic and a catechumen or an unbaptized person must be considered non-sacramental, therefore such a marriage must be celebrated only following the "Order of Celebrating Matrimony between a Catholic and a Catechumen or a Non-Christian." The Dicastery

⁸⁶ See *The Order of Celebrating Matrimony*, no. 36.

⁸⁷ See A. VALSECCHI, Letter to the Congregation for Divine Worship and the Discipline of the Sacraments Requesting Clarification of Liturgical Law concerning the Celebration of a Marriage within the Mass When One of the Couple Is Not Baptized, 25 May 2018, in Appendix 9, 279–280.

⁸⁸ See A. ROCHE [the secretary of the Congregation for Divine Worship and the Discipline of the Sacraments], Letter to the President of the CBCT Requesting Information on the "Order of Celebrating Matrimony between a Catholic and a Catechumen or a Non-Christian," 17 July 2018, in Appendix 10, 281–282.

encouraged parish priests to focus on pastoral initiatives and schedule the Mass for the day before such a wedding celebration, or even at an earlier hour on the wedding day itself.

In response to the letter of the Secretary of the Congregation for Divine Worship and the Discipline of the Sacraments, Archbishop Roche certain conclusions can be drawn. First of all, in Thailand, the engaged couple must follow Decrees nos. 11 and 13 of the CBCT⁸⁹ which refer to the pre-marital investigation and the publication of marriage banns. A revised pre-marital investigation, as presented earlier in this chapter,⁹⁰ includes revisions which serve to remind the Catholic party of the Church's teaching on marriage. Following the new proposed format of pre-marital investigation should help the Buddhist party, and also his/her family, better understand the Catholic teaching on marriage, especially regarding the unity and indissolubility.

Secondly, parish priests must explain the meaning of the order of celebrating a marriage between a Catholic and a Buddhist to the couples so that they understand that, although their marriage is not a sacrament, it must adhere to the form prescribed for marriage. It would also be a good idea that the priest invites the couple's families to attend the portion of the meeting which covers the order of celebrating matrimony between a Catholic and a Buddhist so that their families can support the couple during their wedding ceremony.⁹¹

⁸⁹ Cf. CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 11: Preparation and Investigation before Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 1, 265; ID., Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in Appendix 3, 267.

⁹⁰ See BOONPHAO, A Proposed Revised Pre-Martial Investigation, in Appendix 5, 273–275.

⁹¹ Cf. FABC OFFICE OF THEOLOGICAL CONCERNS, "A Few Theological and Pastoral Perspectives of Inter-Faith Marriages," 61.

Thirdly, a marriage between a Catholic and a Buddhist must be celebrated according to the “Order of Celebrating Matrimony between a Catholic and a Catechumen or a Non-Christian.”⁹² In view of the Dicastery’s instructions in the letter of 17 July 2018,⁹³ the Liturgical Commission of Thailand has issued instructions, in a letter of 4 October 2019, outlining the correct way to celebrate a marriage between a Catholic and a Buddhist. These new instructions took effect on 1 December 2019. The Commission presented three options for celebrating these marriages.⁹⁴

The first and second options allow the two liturgical rites, “Order of Celebrating Matrimony between a Catholic and a Catechumen or a Non-Christian” and the regular Mass, to be celebrated contiguously. The key point in the instruction is that the two liturgical celebrations must be clearly separated, with the priest wearing the appropriate vestments for each portion: the cope or the *cappa* for the “Order of Celebrating Matrimony between a Catholic and a Catechumen or a Non-Christian” and the chasuble for the Mass.

The first option has the ceremony beginning with the “Order of Celebrating Matrimony between a Catholic and a Catechumen or a Non-Christian,” followed by a Mass. The second option has the reversed order of ceremonies.

The third option, offers the possibility of the two portions being celebrated on different days. It is still important that the priest wears the correct vestments for each liturgical rite.⁹⁵

⁹² See *The Order of Celebrating Matrimony*, nos. 118–143.

⁹³ See ROCHE, Letter to the President of the CBCT, in Appendix 10, 281–282.

⁹⁴ See CATHOLIC BISHOPS’ CONFERENCE OF THAILAND, The New Instructions to the Catholic Church in Thailand on Celebrating a Marriage between a Catholic and a Non-Christian, 4 October 2019, in Appendix 17, 292–295.

⁹⁵ See *ibid.*

4.5.2 – Thai Wedding Ceremony

All Asian religions celebrate marriage with rituals and celebrations that are particular to their beliefs. In a marriage between a Catholic and a Buddhist, both sets of rituals and celebrations are important to each of the couple and to their respective families. However, canon law does not allow for any other religious celebration for the purpose of giving or renewing matrimonial consent which creates a logistical problem for these couples.⁹⁶

Even though the Thai wedding ceremony is related to Buddhist traditions, it is a family ceremony as opposed to a religious one. This ceremony is regarded as a merely social event because no Buddhist monk takes part in it. If Buddhist monks are invited, they perform their role before the actual marriage celebration. Moreover, during the Thai wedding ceremony, neither the bride nor the groom exchange any words.⁹⁷

Canon 1127, §3 is directed towards a second *religious* celebration of a marriage for the purpose of expressing or renewing matrimonial consent; it is not directed towards a second ceremony which has only civil or cultural meaning. Since the marriage ceremony of Thai and Buddhist traditions is clearly only a secular rite and not a religious ceremony, there are no issues that would trigger a canonical prohibition regarding a renewal of matrimonial consent.⁹⁸

⁹⁶ Cf. c. 1127, §3. See DEVADASS, “The Pastoral Response to the Church to the Challenges of Inter-Faith Marriages,” 46–47.

⁹⁷ See J. PRICKETT (ed.), *Living Faiths: Marriage and the Family*, Cambridge, Lutterworth Press, 1985, 51.

⁹⁸ See J. D’MELLO, *The Dual Religious Marriage Celebration in India*, JCD thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 1985, 50–51; see also Cf. FABC OFFICE OF THEOLOGICAL CONCERNS, “A Few Theological and Pastoral Perspectives of Inter-Faith Marriages,” 46.

The practical reality in Thailand surrounding the marriage ceremony is that the Thai wedding ceremony⁹⁹ cannot be avoided even when the marriage involves a Catholic party. The issue is related to the expectation that Thai and Buddhist ritual traditions will be respected and appreciated and that both parties will respect each other's faith as they begin their family life.¹⁰⁰

In 1983, the CBCT presented a solution whereby the Thai wedding ceremony, performed in accordance with regional, tribal, or local rites, and Catholic wedding ceremony were separated, with Thai Catholics being allowed to hold the Thai wedding ceremony immediately after the Catholic wedding.¹⁰¹

The following examples come from the general proposal for Thai Catholic wedding ceremony as outlined by the Liturgical Commission of the Catholic Church in Thailand. Diocesan bishops and parish priests are permitted to modify these examples provided their changes comply with Catholic teaching. They are also advised to ensure that the faithful understand the changes. The engaged couples should discuss the schedule for a Thai wedding ceremony with the parish priest during the pre-marital investigation. Needless to say, a Thai Catholic, who is marrying a Buddhist should understand the meaning of the Thai wedding ceremony in order to prepare themselves for it.

When the Catholic wedding ceremony has concluded, a separate room with its own entrance and exit should be set aside for the celebration of the Thai wedding ceremony. Some decorations are welcomed.

⁹⁹ The Thai wedding ceremony was presented in detail in Chapter Two.

¹⁰⁰ See ARIKASARNY, "Challenges and Opportunities of Interreligious Dialogue in Interfaith Marriages," 198–199.

¹⁰¹ See LITURGICAL COMMISSION OF THAILAND, *Thai Wedding Ceremony after Catholic Wedding, in Matrimony and the Order of Mass for a Couple*, Bangkok, CBCT, 1992, 151–152, in Appendix 18, 296–297.

If possible, the parish should arrange for the Thai wedding ceremony. If necessary, the ceremony may take place in the church, but that must be a mutual decision of the couple and the parish. The CBCT suggests the following procedure for the ceremony:

The host invites the Thai presider of ceremony to begin the ceremony. Together with the president, the couple pays respect to Christ's statue set on an altar table, with a cross, candles, and flowers. Secondly, garlands are placed around the neck of the bride and groom. Thirdly, the couple receives a pair of *mongkol faet* or headpieces and torching palms are placed before the bride and groom while they are wished a life-long relationship as symbolized by the joined headpieces. The headpieces are then placed on the heads of the bride and groom. Fourthly, a conch shell filled with holy water is poured on the closed hands of the bride and groom. Then, the president receives a container of powder mixed with perfume and holy water, and using the fingers of the right hand anoints 1–3 dots on the foreheads on the bride and groom.

The guests are then invited to participate in the water pouring ceremony. The bride and groom bow their heads slightly while the president and each guest use the conch shell to pour the holy water on the couple's palms. Subsequently, the president stands in front of the bride and groom and simultaneously removes both headpieces while giving a short blessing. At this point, the Thai wedding ceremony concludes and the bride and groom leave their seats.¹⁰²

It would be advisable that the CBCT form a committee to study the meaning of the Thai wedding ceremony rite and develop an official explanation and instruction for

¹⁰² See *ibid.*

including a Thai wedding ceremony on the occasion of a marriage celebration between a Catholic and a Buddhist.

4.6 – Effective Marriage Preparation Programs

In Thailand the number of declarations of nullity is increasing, especially for marriages between Catholics and Buddhists. It is hoped that by improving the marriage preparation program this trend will be reversed.

Pope Benedict XVI pointed out that those involved in preparing couples for marriage must be knowledgeable in the practical aspects of canon law regarding marriage. The Pope indicated that

[...] with the various means at our disposal for a sound preparation and verification, we can develop effective pastoral care aimed at preventing matrimonial annulments. We must do our best to break - to the extent that it is possible – the vicious circle that often exists between a careless admission to marriage, without adequate preparation and a serious examination of the necessary requirements for its celebration, and judicial declaration sometimes just as careless, but opposite in significance, in which the same marriage is considered null solely on the basis of the claim of its failure.¹⁰³

The Pope highlighted a link between insufficient marriage preparation for couples, and the claim of the failure of their marriages and ensuing declarations of nullity of the bond. This undesirable outcome may hopefully be reduced by developing effective marriage preparation programs which will enable both the couples themselves and those who are preparing them for marriage to evaluate properly their intentions and maturity regarding marriage. Benedict XVI also mentioned that failure of a marriage in itself is not a ground for its nullity. Adequate preparation for marriage and a serious investigation of the pre-requisites for its celebration may actually reduce marriage failure. A properly

¹⁰³ BENEDICT XVI, allocution to the Roman Rota, 22 January 2011, in AAS, 103 (2011), 111–112, English translation in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 165 (2011), 19.

designed long-range scientific study of this subject matter would certainly help in establishing the soundness of this presumption.¹⁰⁴

Pope Benedict XVI focused on two important points regarding the effectiveness of marriage preparation: first, a marriage preparation course, which however cannot enable one to detect all the causes of nullity of marriage, and second, the need for some basic and practical knowledge of the canons specific to marriage for those who have the pastoral responsibility for marriage and families. In this regard, the Pope remarked:

It is true that not all causes of a future declaration of nullity can be identified or manifested in the preparation for the marriage, but, at the same time, it would not be right to block access to marriage on basis of unfounded presumptions, such as that as holding that today's world people are generally incapable of marriage or only have an apparent desire for it. In light of this, it is evidently important that there be a more acute awareness of the responsibility that those charged with the care of souls have in these matters. Canon law in general, and that dealing with marriage and trials in particular, certainly demands a special preparation, but a knowledge of the basic and the immediately practical aspects of canon law, relative to our proper functions, constitutes a formative exigency of fundamental relevance for all pastoral workers, is in particular for those who are engaged in the pastoral care of families.¹⁰⁵

Pope Benedict XVI recognized the cultural bias surrounding the assessment of the ability of contemporary couples to hold the Catholic understanding of marriage, particularly concerning its permanence and exclusivity. All the more, he insisted that those who assist couples in marriage preparation should have at least a basic awareness of the canonical obligations and procedures related to marriage in order to minimize the factors that might adversely affect the validity of marriage.

A couple who is not practicing the faith regularly but is willing to participate in the parish or diocesan marriage preparation program can be married in the Church. Moreover, a couple's unwillingness to participate in the marriage preparation program is

¹⁰⁴ See MENDONÇA, "The Relationship between Canon Law and Pastoral Care," 180.

¹⁰⁵ BENEDICT XVI, allocution to the Roman Rota, 22 January 2011, in AAS, 103 (2011), 112, in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 165, 2011, 19.

not a reason to deny a Church wedding celebration. In this case the marriage could be delayed temporarily while the pastor provides the marriage preparation information to the couple. The timing of the Church wedding celebration is at the discretion of the pastor.¹⁰⁶

Canon 1063 states that pastors of souls are obliged to ensure that the faithful under their care are instructed in the meaning of Christian marriage. Canon law leaves it to conferences of bishops,¹⁰⁷ and dioceses,¹⁰⁸ to develop more specific policies regulating marriage preparation. For example, most dioceses in the United States of America require a marriage preparation program for all couples who wish to marry in the Church.¹⁰⁹ If a couple refuses any kind of marriage preparation, their marriage can be delayed, provided that such a delay is permitted by the local ordinary either due to a particular problem with the case or as a general policy.¹¹⁰ Such a delay would highlight the importance of preparation for receiving the sacrament of marriage.

If the marriage preparation program is mandatory, couples who are unable to attend the fixed dates must be given alternate ways to prepare properly for their marriage. Diocesan policies should recognize this reality.¹¹¹

It would be desirable that the CBCT issue a decree mandating the marriage preparation program for all couples wishing to marry in the Church, especially for the

¹⁰⁶ See ROBITAILLE, “Pastoral Care and Those Things which Must Precede the Celebration of Marriage (cc. 1063–1072),” 1261.

¹⁰⁷ Cf. c. 1067.

¹⁰⁸ Cf. c. 1064 and c. 1077.

¹⁰⁹ Cf. J.A. [bishop] FIORENZA, PRESIDENT OF THE NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Promulgation of Decree of the Complementary Legislation for Canon 1067 of the Code of Canon Law for the Latin Rite Dioceses of the United States, 1 December 2000, in *J*, 73 (2013), 284–285, in Appendix 20, 300.

¹¹⁰ Cf. c. 1077, §1. See HUELS, “Preparation for the Sacraments: Faith, Rights, Law,” 56; see also K.T. SULLIVAN and P.J. FITZGERALD, “Preparing for Marriage: What Pastoral Marriage Counsellors Should Know about Religious Belief, Psychological, and Marital Outcome,” in *INTAMS*, 7 (2001), 68–74.

¹¹¹ See T.G. SULLIVAN, “Canonical Supports for Collaboration in Sacramental Ministry,” in *Proceeding of the Canon Law Society of America*, 71 (2009), 276.

marriages between a Catholic and Buddhist party. The marriage preparation program could be organized by the parish priest and made available to the couples to be married in his parish. The program may be either the standard one for the whole Church in Thailand or one tailored to the specific situation if the required resources are available.¹¹²

4.7 – Guidelines for Pastoral Care after the Wedding

The married state occupies an important place in the Christian community. Hence good pastoral care for couples, and especially, in the Thai milieu, of Catholic-Buddhist couples must be provided also after the wedding ceremony in order to make those unions the fruitful ones. It is the responsibility of the Catholic community to support these couples from the beginning of their married life as they may experience tensions arising from their religious differences.¹¹³

4.7.1 – Organization of Pastoral Care of the Married Couples

Married couples may experience many challenges and problems that will require encouragement, consolation, guidance, and sustained moral support from the Church and her ministers. While the Catholic party should be assisted in deepening their Catholic faith, they should also be helped to understand better the partner's religion in order to reduce any tensions arising from religious differences.¹¹⁴ After the wedding celebration, persons involved in pastoral ministry should also help the couples in proper

¹¹² Cf. FABC OFFICE OF THEOLOGICAL CONCERNS, "A Few Theological and Pastoral Perspectives of Inter-Faith Marriages," 44.

¹¹³ See GAVIN, "Marriage Preparation is a Lifetime Journey," 191–192.

¹¹⁴ See *ibid.*, 47; see also PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 95.

understanding of their common rights and duties, including the education of the children.¹¹⁵

In fact, the Catholic Church in Thailand is already committed to pastoral care of families. There is a well-known pastoral care program called “A Seminar of Reactivity for Family Life,” intended for accompanying couples after their wedding. The objectives of this program are the following: 1) to urge both husband and wife, even a non-Catholic spouse, to realize the value of a life of love and the essence of the meaning of marriage and the equal dignity of men and women; 2) to advise both husband and wife to adopt and practice religious principles according to their own religion, and to encourage them to grow closer to God; 3) to remind both husband and wife about the importance of their responsibility to the family and the Church; 4) to invite both husband and wife to deepen acceptance and empathy for living a family life and raising children; 5) to urge both husband and wife to gain knowledge about and understanding of family planning in accordance with the teachings of the Church.¹¹⁶

Given the Asian socio-cultural and Buddhist context, there are two significant problems which may arise in marriages between Catholics and Buddhists after the wedding. Firstly, in Thailand, marriage is not only a matter concerning a couple; the marriage reality engages the two families, two communities, and two religions. The marriages between Catholics and Buddhists, therefore, can touch the lives of many people, each with a particular understanding of the matter. The couple may have agreed to respect each other’s religious beliefs but their families or communities may become a

¹¹⁵ See PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 103.

¹¹⁶ See CATHOLIC COMMISSION FOR THE FAMILY OF ARCHDIOCESE OF BANGKOK, The Objectives of a Seminar of Reactivity for Family Life Program, in Appendix 11, 283.

source of conflict. Some communities or families may accept the marriages between Catholics and Buddhists as a given in contemporary society, while others may raise strong objections and resist such marriages which often leads to the ostracism of a couple by the family or the community.¹¹⁷

The fact that marriages between Catholics and Buddhists can disrupt the harmony of faith communities is a legitimate concern both for the Catholic Church and other religious communities. This is where the dialogue between different religions becomes crucial as potential issues associated with marriages between Catholics and Buddhists might be helped tremendously by healthy interreligious dialogue. Indeed, some Buddhist communities in Thailand practice their faith so strongly that the Catholic party is in danger of practicing Buddhism rather than Catholicism.¹¹⁸

Secondly, in Thailand the Buddhist party can easily abandon their marriage by leaving the Catholic party and getting married again. Buddhists are allowed to divorce and enter into a new marriage. This often happens when the Buddhist party is a man because most of Thai society believes that one man can have many wives, even though this practice is illegal according to Thai marriage law. On the other hand, for most of Thai society it is a given that a woman should have only one husband. In contrast to the Catholic Church teaching, Buddhists do not believe that marriage lasts for the whole of the spouses' lives. Moreover, they have no concern about endangering the spiritual wellbeing of a Catholic spouse. In this situation, the Catholic Church must support the

¹¹⁷ See FABC OFFICE OF THEOLOGICAL CONCERNS, "A Few Theological and Pastoral Perspectives of Inter-Faith Marriages," 52.

¹¹⁸ See ARIKASARNY, "Challenges and Opportunities of Interreligious Dialogue in Interfaith Marriages," 194–195; see also Cf. FABC OFFICE OF THEOLOGICAL CONCERNS, "A Few Theological and Pastoral Perspectives of Inter-Faith Marriages," 47–48.

Catholic party who has to choose between being alone¹¹⁹ or falling into a state of sin by a remarriage outside of the Catholic Church. Parish priests or catechists should explain to the persons concerned how to practice their faith in this difficult situation. Moreover, when an abandoned Catholic party marries civilly without the declaration of the nullity of their marriage, he or she places himself/herself in an objectively irregular situation which precludes participation in the sacraments. Such a person needs understanding and help from the local Church and its ministers.¹²⁰

The post-synodal exhortation *Amoris laetitia* recommends that the Catholic party's path to sanctification involve showing love to the non-Christian spouse by sharing joys and hurts in their life together. In this way, the non-Christian spouse is consecrated through the Catholic spouse's fidelity to Christ.¹²¹ Marriages between Catholics and Buddhists in Thailand are a key place for interreligious dialogue, to take place especially when a couple tries to raise the children in the Catholic faith.¹²²

4.7.2 – Guidelines on the Rights and Duties of Parents towards Their Children

Canon law emphasizes the obligation of parents to baptize and educate their children in the Catholic faith thereby safeguarding this essential right and corresponding duty of Catholic parents. There are two applicable meanings of the word “safeguard” in this context: first, to defend from external violation, and second, to maintain the

¹¹⁹ It is not uncommon to encounter a Catholic party separated from a Buddhist spouse who believe that they cannot receive Holy Communion. Indeed, the peer pressure from their community or family encourages them in this belief. They feel guilty about being separated or divorced because many in the Catholic community in Thailand hold erroneously that the separation or divorce puts one in a state of sin. When told that they could receive Communion and practice their faith as usual, they feel very happy.

¹²⁰ See PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 104.

¹²¹ See *AL*, no. 228, in *AAS*, 108 (2016), 403, in *Amoris laetitia*, 196–197

¹²² See *AL*, no. 248, in *AAS*, 108 (2016), 412, in *Amoris laetitia*, 214.

obligations which the Church cannot dispense from because they derive from divine law. Therefore, the right and duty of parents to baptize and educate children come directly from God.¹²³

4.7.2.1 – Implementation of the Promise to Have Children Baptized in the Catholic Church

Canon 1125 mandates that the Catholic party make promises regarding two issues. First, that the individual will remove any danger of defecting from the Catholic faith and second, that he or she will make a sincere promise to do everything possible to baptize and raise all children in the Catholic faith. The canon states the right and duty of the Catholic party to baptize and educate children while placing it in the context of a more pastoral approach than in the 1917 Code. In particular, no demand is made of the non-Catholic party to promise to “remove the danger of perversion from the Catholic spouse;”¹²⁴ and that “all children will be baptized only Catholic and so educated.”¹²⁵ In addition, the previous stipulation regarding moral certitude that the promises would be implemented has been eliminated.¹²⁶ It is only the Catholic party that makes the promise to do “everything possible”¹²⁷ to have all children baptized and educated in the Catholic Church.

Decree no. 13 of the CBCT states that in case of a mixed marriage, the Catholic party must make a promise to do all in his or her power to have all children baptized and

¹²³ See PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 41–42.

¹²⁴ “[...] de amovendo a coniuge catholico perversionis periculo” (*CIC/17*, c. 1061, §1, 2°).

¹²⁵ “[...] universa prole catholice tantum baptizanda et educanda” (*ibid.*).

¹²⁶ “Moralis [...] certitudo de cautionum implemento” (*ibid.*, 3°).

¹²⁷ “[...] omnia pro viribus facturam esse” (c. 1125, 1°).

raised in the Catholic Church.¹²⁸ A family situation which does not guarantee the continuation of children's Catholic upbringing would make these children disregard or even abandon their faith. Moreover, without maintaining education in the faith, children would have no sense of Catholicism, and therefore would have no opportunity to act on and develop the grace received in baptism.¹²⁹

A Catholic party in a mixed marriage in Thailand may face a situation where the postponement of baptism of an infant or a child is reasonable. For example, if there is no realistic hope that the child will be raised in the Catholic faith because of opposition from the Buddhist party or there is certain risk to the stability and harmony of family union unless the child is brought up in the Buddhist environment, the postponement of baptism could be seen as a realistic solution.¹³⁰

The postponement should be understood as an opportunity to instruct the couple further on their responsibilities to raise the child in the Catholic Church. In a normal situation, before baptizing their children, a suitable period of time is required to prepare parents by instructing them about the meaning of baptism and its corresponding obligations.¹³¹ In the particular situation of the marriages between Catholics and Buddhists, it may take longer to prepare both the Catholic and the unbaptized parent. Therefore, in order to avoid future difficulties, Catholic parent should discuss the

¹²⁸ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in Appendix 3, 267.

¹²⁹ See PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 48.

¹³⁰ Cf. c. 868.

¹³¹ Cf. c. 851, 2°: "the parents of an infant who is to be baptized and likewise those who are to undertake the office of sponsor are to be properly instructed in the meaning of this sacrament and the obligations which are attached to it; personally or through others the pastor is to see to it that the parents are properly formed by pastoral directions and by common prayer, gathering several families together and where possible and where possible visiting them."

obligation to baptize his/her children with the unbaptized party well ahead of the wedding.¹³²

The situation becomes even more challenging if the Catholic party is living in a totally Buddhist milieu. Indeed, in the Buddhist tradition, the son has the duty, for the sake of his parents or ancestors, to become a monk for a period of time. Consequently, even if a boy has already been baptized, the Buddhist family may still request that he become a monk for some determined period of time. That would inevitably put him in conflict with his Catholic faith. In many cases, the Catholic party might not be able to prevent this from happening without provoking a major family problem. Therefore, it is very important that parish priests, catechists, and the engaged couple understand that following this custom is not acceptable for the Catholic party as it would endanger the Catholic faith of the child.

The experience of the Church's pastors in Thailand reveals that very often before a marriage takes place, the Buddhist party agrees that all the children would be baptized, but after the wedding, he or she insists on not allowing the reception of baptism. In this situation, the Catholic party may have to contact the priest to baptize the child quietly in order to avoid a problem within the family.¹³³

In view of the above mentioned problems, it is clear that the CBCT must provide clear instructions regarding the baptism of children born in marriages between a Catholic and a Buddhist party.

¹³² See PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 48–49.

¹³³ Cf. c. 868: §1. “For an infant to be baptized licitly: 1° the parents or at least one of them or the person who legitimately takes their place must consent; 2° there must be a founded hope that the infant will be brought up in the Catholic religion; if such hope is altogether lacking, the baptism is to be delayed according to the prescripts of particular law after the parents have been advised about the reason.”

4.7.2.2 – Implementation of the Promise of Education in the Faith

Although the baptism of children may be postponed for valid reasons, the obligation to educate the children in the Catholic faith cannot be postponed or ignored. Parents have the right and duty to educate their children in the Catholic faith, since they are the first catechists of their children.¹³⁴

The Catholic parties in a Catholic and Buddhist marriage should keep in mind their grave obligation to educate their children in the Catholic faith. The instruction *Matrimonii sacramentum* asserted that the fulfillment of this obligation should be assured by the explicit promise or guarantee made by the Catholic and must be made known to the non-Christian.¹³⁵ This assertion was confirmed by Pope Paul VI's apostolic letter *Matrimonia mixta*.¹³⁶ Both documents reiterate the obligation of the Catholic party to fulfill both promises, to baptize and to educate the children in the Catholic faith. Consequently, c. 1125, 1° states explicitly that the Catholic party has to do all within his or her power to have all the children baptized and brought up in the Catholic Church.¹³⁷

The difficult situations faced in Thailand by Catholics in their marriages with Buddhist spouses are not reasons to abandon the duty of educating their children in the faith, even though there is a likelihood that parents may fail in this duty.¹³⁸ Therefore, it would be highly recommended that the CBCT issue a suitable general decree direct Catholics in their task of educating their children in the Catholic faith by employing various available means.

¹³⁴ See c. 774, §2. Cf. also PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 49.

¹³⁵ See *MS*, part I, no. 3, in *AAS*, 58 (1966), 237, *FLANNERY1*, 476.

¹³⁶ See *MM*, nos. 1–4, in *AAS*, 62 (1970), 260–261, *FLANNERY1*, 511–512.

¹³⁷ See PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 50.

¹³⁸ See *ibid.*, 50–51.

First of all, Catholic children and youth should have a chance to study at a Catholic school and at a Catholic university; the CBCT should therefore encourage Catholic schools and Catholic universities to welcome all Catholic children and youth by providing scholarships as necessary. In the milieu of Catholic schools, the catechetical instruction and accompanying Catholic activities provided for the students best ensure that the children are properly educated and formed in the Catholic faith. They can also be prepared fruitfully for the reception of First Communion, with reconciliation in the sacrament of Penance, and Confirmation.

Secondly, Catholic children studying in public schools and living in a Buddhist milieu should be educated in the faith in their own parish, on the weekends or during the summer months. It would be the responsibility of parish priests and catechists to provide these services to ensure that all Catholic children have the opportunity to be educated and formed in the Catholic faith. Through such programs, Catholic children will have a chance and an opportunity to receive suitable catechesis, especially on the sacraments. Although every parish regularly provides catechetical courses during summer months for Catholic children, parish priests should also provide appropriate courses during weekends as well; they should encourage parents to avail their children of this kind of faith instruction. The pastors of souls need also to explain to the Catholic spouses the urgency of using these opportunities.

Finally, parish priests must offer activities and special courses about Catholic family life for young Catholic couples. In this way, the Church could provide an on-going formation in the Catholic faith for Catholics living and practicing their faith in the Buddhist setting, encircled by Thai culture. These specific initiatives would support and

encourage young couples to live their family life fully in accordance with the teachings of the Catholic Church. As it has already been mentioned, every diocese provides “A Seminar of Reactivity for Family Life”¹³⁹ for young couples. One can expect that with time, the Catholic Church in Thailand would be able to provide more undertakings focusing on the difficulties and problems facing young couples and families in a non-Christian milieu.

Pastoral experience reveals that families who attach great importance to a harmonious marital and family life tend to have successful marriages, with no conflict surrounding their individual faith beliefs and practices. In these families, the couples are so compelled by their mutual agreement and respect for one another’s faith that they feel an obligation to learn how to build a harmonious marital and family life. They serve as an excellent example for marriages between Catholics and Buddhists.¹⁴⁰

There cannot be any compromise regarding the duties towards one’s own faith. Practically, for the Catholic party the journey of faith will not be easy or smooth. Indeed, the Catholic party is not only expected to abide by his or her own faith but also to be respectful of the Buddhist party’s faith, so that a serene, mature, and peaceful life be possible. The practice of Catholic faith of the Catholic parent and the children born in such a marriage should not, however, obscure the positive values of the Buddhist religion. In this context, it is hoped that a dialogue between the couple might develop through mutual acceptance and understanding so that they be able to overcome the difficulties and dedicate themselves to the human values of building up a good conjugal

¹³⁹ See CATHOLIC COMMISSION FOR THE FAMILY OF ARCHDIOCESE OF BANGKOK, *The Objectives of a Seminar of Reactivity for Family Life Program*, in Appendix 11, 283.

¹⁴⁰ See ARIKASARNY, “Challenges and Opportunities of Interreligious Dialogue in Interfaith Marriages,” 200.

and family life. Parish priests and catechists have a special obligation to help couples in their mutual growth; the Catholic party in particular should be helped to deepen their own faith in such a way that he or she becomes open to the religion of the Buddhist partner without, however, endangering his or her own faith.¹⁴¹

4.8 – Review of the Particular Norms and Guidelines from the Catholic Bishops’ Conference of Thailand on Marriages between Catholics and Buddhists

The Catholic Church’s primary task is to evangelize the world and re-evangelize the evangelized as part of her Christ-given authority to save souls. Therefore, the Catholic Church has the duty to educate her people about family and moral values. The biggest hurdle a Catholic-Buddhist couple faces when deciding to marry in the Church is to confront the negative attitudes of the Buddhist party’s parents and relatives who often are opposed to this decision.

4.8.1 – Particular Challenges for the Church in Thailand regarding the Pastoral Care of Families

It is very challenging for the Catholic Church in Thailand to provide effective pastoral care to families of the marriages between Catholics and Buddhists. This includes various situations, for instance, a non-baptized party refusing to allow the baptism of the couple’s children. Some Buddhist spouses, sometimes under pressure from the Catholic partner’s family, agree to the terms of c. 1125 initially to please the Catholic party but reject them after the wedding. Particularly in Thailand where the society is patriarchal, if

¹⁴¹ See PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 106.

the Catholic party is a woman, the chances of bringing up the children in her faith are minimal.¹⁴²

One of the practical problems faced by the Church and the Catholic party is their response should a child decide to follow the religion of the unbaptized parent. Another difficulty concerns the burial of the non-baptized partner. Although Canon law does not mention burial it is an integral part of the funeral rites. According to c. 1183, if the unbaptized spouse never intended to be baptized in the Catholic Church, he or she is not allowed to be buried in a Catholic cemetery.¹⁴³ While the Latin rite has a common rule for such cases, the Catholic Eastern rite allows a non-baptized spouse, who is close to the Church, to be buried in the Catholic cemetery at the discretion of the local hierarchy.¹⁴⁴

According to Decree no. 8 of 1992 by the CBCT, those who are considered catechumens are allowed Church funeral rites and may be buried in a Catholic cemetery.¹⁴⁵

In the present situation, the Church's outreach to marriages between Catholics and Buddhists ends with the wedding ceremony. All dioceses in Thailand have marriage preparation programs that both the Catholic and the Buddhist partner must attend, but about three of the 11 dioceses in Thailand have post-matrimonial programs for those

¹⁴² Cf. FABC OFFICE OF THEOLOGICAL CONCERNS, "A Few Theological and Pastoral Perspectives of Inter-Faith Marriages," 50–51.

¹⁴³ Cf. c. 1183: "§1. When it concerns funerals, catechumens must be counted among the Christian faithful. §2. The local ordinary can permit children whom the parents intended to baptize but who died before baptism to be given ecclesiastical funerals. §3. In the prudent judgement of the local ordinary, ecclesiastical funerals can be granted to baptized persons who are enrolled in a non-Catholic Church or ecclesial community unless their intention is evidently to the contrary and provided that their own minister is not available."

¹⁴⁴ Cf. CCEO, c. 876: "§2. Children, whose parents had intended to baptize them, and others who had seemed to be in some way close to the Church, but who died before they received baptism, can be given an ecclesiastical funeral according to the prudent judgement of the local hierarchy."

¹⁴⁵ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 8: Norm concerning the Arrangement of the Catechumenate, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 8, 278.

married with the disparity of worship dispensation. It is urgent that more dioceses develop post-matrimonial programs for such couples. The CBCT needs to encourage every diocese to organize specific post-matrimonial programs for Catholic-Buddhist couples and could facilitate their task by appointing a special committee to study the needs of such couples, develop an outline of such a program, and ensure that the diocesan programs be offered annually.

This effort should include all levels of the Church's organizational structures. First of all, parish priests should help identify such families and invite the couples who have completed the first year of marriage for "cordial meetings" to determine their needs and expectations. It is advisable that dioceses prepare short, preliminary programs at the deanery level. Using the experience gained in these meetings, Church leaders could develop a post-matrimonial program for spouses in marriages between Catholics and Buddhists to be led by diocesan family commissions, with the collaboration of parish priests and experts in family apostolates. An important goal of those programs would be to help the Catholic spouses and their partners defend family moral values "in an emerging technological and globalized world where religious values are often overlooked"¹⁴⁶ and individuals are reduced to "mere producing machines."¹⁴⁷ Moreover, the programs should also address other issues relevant to Thai society such as differences in Catholic and Buddhist moral judgment on euthanasia, contraception, abortion, etc.¹⁴⁸

¹⁴⁶ Fr. Michael Peter, an Indian moral theologian, identified this particular challenge in his survey on mixed marriages in several archdioceses in southern India, between 2005–2010. See J. KAVI, "Mixed Marriages Challenge in Asian Families," in *National Catholic Reporter*, 10 September 2015, 6.

¹⁴⁷ Ibid.

¹⁴⁸ See CATHOLIC MISSION FOR CHRISTIAN LAITY, DESK FOR THE FAMILY, *Guidelines for Those Who Are Married (Continued Pastoral Care after Marriage)*, 27–49.

4.8.2 – Revision of the Particular Norms

The particular norms and guidelines regarding marriages between Catholics and Buddhists were issued by the CBCT in 1992.¹⁴⁹ As almost 30 years have passed since their promulgation, the common expectation is that the CBCT will revise their general decrees to adapt them to the present day.

First of all, the pre-marital investigation questionnaire is to be revised.¹⁵⁰ The questions asked in the old version are not very practical; some of the questions are confusing or irrelevant.¹⁵¹ The revised version should be more practical and understandable both for the interviewing priest and the engaged couple.

Secondly, it seems that it would be beneficial if the CBCT increase the lawful age for marriage from 17 years, as it is presently,¹⁵² to 19 years. It appears that in their original decree the CBCT desired to align its norm with the civil law determination. In fact, the Civil and Commercial Code, section 1148, states that a person who has completed their seventeenth year can validly contract a marriage. Indeed, in the past, a 17-year-old person was considered mature and capable of making an informed decision to marry. Currently however, the basic level of education in Thailand ends with Grade 12, with an average age of 18–19 years for graduation. From the pastoral point of view, it

¹⁴⁹ Cf. CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 11: Preparation and Investigation before Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 1, 265; ID., Decree no. 12: Minimum Age for Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 2, 266; ID., Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in Appendix 3, 267.

¹⁵⁰ See CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Pre-Marital Investigation Form, in Appendix 4, 268–272.

¹⁵¹ Examples of these difficulties were presented earlier in this chapter, see section 4.4.2 – Revision of the Pre-Marital Investigation Form.

¹⁵² Cf. CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 12: Minimum Age for Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 2, 266.

is not prudent to permit a 17-year-old to marry while they are normally still enrolled in high school.

Thirdly, the CBCT should mandate that every diocese has parish priests and catechists who are knowledgeable about the issues covered in the approved marriage preparation program for Catholic-Buddhist couples. The CBCT should ask that each diocese makes the marriage preparation program mandatory for all couples.

Fourthly, the CBCT should issue specific norms to be observed during the pre-marital investigation according to c. 1067 in the cases of the couples where one party is Catholic and the other is Buddhist.¹⁵³ Such norms should include the following stipulations:

- 1) the couples are to receive appropriate education and formation through participation in a marriage preparation program approved by the diocesan bishop, at least three months before the wedding;
- 2) the parties are to be questioned as to their freedom to enter the marriage, with the particular attention to various instances of being forced to marry;
- 3) the baptized Catholics are to present a baptismal certificate issued less than six months earlier to prove that they are Catholic and never been married; where necessary, additional documentation (such as affidavits of parents) attesting to the Catholic party's freedom to marry are to be presented;
- 4) the unbaptized person is to present satisfactory proof of freedom to marry with the sworn statement of two persons testifying to that;

¹⁵³ Cf. CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 11: Preparation and Investigation before Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 1, 265; ID., Decree no. 12: Minimum Age for Marriage, 15 August 1992, in *Particular Norms for Thailand*, in Appendix 2, 266; ID., Decree no. 13: Declaration and Promises in Case of Mixed Marriage, 15 August 1992, in Appendix 3, 267.

- 5) the process of preparation for marriage is to be in conformity with the prescriptions of canon 1063 (regarding what must precede marriage) and canons 1064, 1071, 1072, 1086, §2, and 1125, which entrust certain situations to the special care of local ordinaries;
- 6) preparation for marriage is to be in compliance with appropriate civil laws.¹⁵⁴

However, pastoral experience reveals that in some situations a particular couple would not be able to take the standard marriage preparation program. For example, the couple may be unable to travel to the diocesan centre to attend the program. As well, it could be a subsequent marriage for both of them, so certain segments of the marriage preparation program would not apply to their situation. Local policies must be flexible enough to accommodate the needs of such persons. The Catholic Church in Thailand should make this the responsibility of both the diocese and the parish. Parish priests may have to adapt or shorten the marriage preparation program to fit the particular needs and circumstances of life of the couple.¹⁵⁵

4.8.3 – Pastoral Guidelines as a Tool of Constant Renewal of Pastoral Care of

Families

In his apostolic exhortation *Amoris laetitia*, Pope Francis stated that pastoral initiatives need to be developed with respect for each country and region:

Since “time is greater than space,” I would make it clear that not all discussions of doctrinal, moral or pastoral issues need to be settled by interventions of the magisterium. Unity of teaching and practice is certainly necessary in the Church, but this does not

¹⁵⁴ These proposed norms are an adaptation of the USCCB norms. See USCCB, *Complementary Legislation to the Code of Canon Law*, in *J*, 73 (2013), 284–285; see also SULLIVAN, “Canonical Supports for Collaboration in Sacramental Ministry,” 278.

¹⁵⁵ See HUELS, “Preparation for the Sacraments: Faith, Rights, Law,” 57.

preclude various ways of interpreting some aspects of that teaching or drawing certain consequences from it. This will always be the case as the Spirit guides us towards the entire truth (cf. Jn 16:13), until he leads us fully into the mystery of Christ and enables us to see all things as he does. Each country or region, moreover, can seek solutions better suited to its culture and sensitive to its traditions and local needs. For “cultures are in fact quite diverse and every general principle... needs to be inculturated, if it is to be respected and applied.”¹⁵⁶

Indeed, a pastoral initiative that is very helpful in one community may be not practical in another. The Pope clearly mentions that not every question needs to be decided by the magisterium, but each country can seek solutions suitable to its culture, traditions, and particular needs.¹⁵⁷

Therefore, the pastoral guidelines in Thailand must consider Thai culture and tradition, especially taking into account the Buddhist community. It would be advisable that the CBCT issue pastoral guidelines specifically on marriages between Catholics and Buddhists.¹⁵⁸ These guidelines should define the pastoral work required by priests and catechists, but it also needs to address the couples. In my opinion, the guidelines should contain:

- 1) an introduction that explains to the engaged couple the Church’s requirements for a marriage between a Catholic and a Buddhist, with a special attention to the need for a pre-marital investigation, and the proof of freedom to marry;
- 2) exposition of the fundamental Church’s teaching on marriage, so that both parties understand and accept each other’s religious practice regarding marriage;

¹⁵⁶ *AL*, no. 3, in *AAS*, 108 (2016), 312, in *Amoris laetitia*, 4.

¹⁵⁷ See F.G. MORRISEY, “Some Pastoral Implications Arising from Chapter VIII of the Apostolic Exhortation *Amoris laetitia*,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 186 (2016), 60–61.

¹⁵⁸ See GAVIN, “Marriage Preparation Is a Lifetime Journey,” 200.

- 3) a presentation of the Order of Celebrating Matrimony between a Catholic and a Buddhist, including the norms regarding the place of the ceremony, and the canonical form of marriage. In the case where the couple desire the Mass to be celebrated before or after their wedding ceremony, the meaning of the Mass should be explained as well;
- 4) the requirements of c. 1125 should be stated in an unequivocal way and the Catholic party's religious freedom to practice their own faith be acknowledged with the understanding that the Buddhist party will support, by every reasonable means, the Catholic party in practicing the Catholic faith. It should be made clear that the Buddhist's party family must not force the Catholic party to participate in Buddhist practices; reciprocally, it should be indicated that the Catholic party should respect the religious freedom of the Buddhist party;
- 5) the rights and duties of the couple regarding their children should be fully explained, including specifically the promise of the Catholic spouse to baptize and raise children as Catholics. In addition, the question of practical means to educate all children in the Catholic faith, including sending them to study in a Catholic school needs to be addressed;
- 6) the guidelines should also state that the Catholic party is to offer a good example of Catholic virtue for the Buddhist party. In this way, the Catholic party's faith will be a witness of religious practice to the Buddhist party; this

witness is not merely a matter of the faith of an individual but of the faith of the Church.¹⁵⁹

In Thailand, social and cultural factors favour the occurrence of marriages between Catholics and Buddhists. The couples in such marriages need to take into account the various aspects of family life and the atmosphere in which they will spend their future life. Both parties need to make an objective evaluation of the contrasting realities present in their union. The choice of the partner should be made with utmost care, allowing sufficient time to reach the final decision after an in-depth reflection. The future spouses need to know about each other's religion, family, and community, as well as be aware of each other's temperament and qualities. A marriage where only one spouse is Catholic can be successful, but is susceptible to situations that may result in conflicts, breakdowns, and other serious consequences for the union. The Catholic party should be made aware of the implications of the step they are taking and should guard against indifference to problems that can become obstacles to the success of their marriage. In particular, they should discuss well in advance how they intend to raise their children in contrasting cultural, religious, and social realities. It is necessary that the couple reflect seriously on all these circumstances and find solutions before they get married and begin living together as husband and wife.¹⁶⁰

¹⁵⁹ See ARIKASARNY, "Challenges and Opportunities of Interreligious Dialogue in Interfaith Marriages," 197.

¹⁶⁰ See CATHOLIC MISSION FOR CHRISTIAN LAITY, DESK FOR THE FAMILY, *Guidelines for Marriage Preparation (Immediate)*, Bangkok, CBCT, 2019, 18–19; see also PRIHARTANA, Ministry of the Education of Faith in the Families of Disparity of Cult Marriages, 101–102; GAVIN, "Marriage Preparation is a Lifetime Journey," 198–200.

Conclusion

A marriage preparation program, especially for marriages between Catholics and Buddhists should be organized at the diocesan and parish level to prepare couples prior to the marriage celebration. The couples must be made aware of the sacred nature of the marital union between a man and a woman and the beauty of married life, as well as the responsibilities towards each other and toward their children. The catechetical and spiritual preparation of the Catholic party needs to be thoroughly reflected upon and discussed. In the course of the marriage preparation it must be explained to both parties that the Buddhist party, after having first acquired a basic understanding of Catholic teaching on marriage, is expected to honor the obligations of the Catholic party.

After the marriage ceremony, pastoral care for the couples should be continued on the level of the diocese and the parish. Due to the differences in the parties' religious practices and traditions, the aim of this pastoral care is to help the Catholic live the Catholic faith peacefully, with the involvement and support of the Buddhist spouse.

The present chapter has demonstrated that canon law and pastoral care must accompany each other for the good of the couple, their families, the Church, and society. While all marriages, sacramental or not, require good marriage preparation and pastoral care at the parish level, in Thailand, where marriages between Catholics and Buddhists occur frequently, they command a special solicitude of the local Church. The CBCT needs to focus on these marriages and develop special programs to prepare and assist Catholics to live their marital vocation fully and in peace of conscience.

The Catholic Church in Thailand ought to study continuously the question of pastoral care of the marriages between Catholics and Buddhists in order to understand

and offer meaningful guidance for those who minister to these couples. The agents of this ministry are first of all priests, but also pastoral lay workers and lay specialists, either as individuals or as members of various groups and associations. A truly compassionate person will contribute considerably to the couples' happiness by explaining with a pastoral heart the Catholic meaning of marriage. This will correspond well to the Church's task of evangelization, particularly the evangelization of the Buddhist community in Thai society.

GENERAL CONCLUSION

In countries in which Catholics are a minority, the number of disparity of worship marriages has increased in recent years. This is especially true in Thailand where the majority of people are Buddhist. Thai marriage statistics show that the number of marriages in which Thai Catholics marry Buddhist spouses, thereby requiring a dispensation from the disparity of worship impediment, outnumber sacramental marriages. The number of non-sacramental marriages celebrated between Catholics and Buddhists creates a need for the Catholic Church in Thailand to focus on pastoral care for the Catholic party who may face difficulties practicing their faith within a Buddhist community. In particular, this calls for appropriate marriage preparation programs.

In Thailand, Buddhism has had significant influence on the thought and practices of the Thai people including teachings and traditions regarding marriage. This study has showed how Buddhist teachings regarding the unity and indissolubility of marriage differ from Catholic teachings. In Buddhism, marriage is considered a secular contract of partnership governed by Thai civil marriage law which permits anyone to divorce and remarry. Due to this practice, a Catholic spouse can be put in a difficult family situation if the Buddhist spouse decides to leave the family.

The thesis is grounded in the Church's theology of marriage as developed by the Second Vatican Council and reflected in the 1983 Code of Canon Law. Indeed, it seems that canons on marriage are those which are applied most often in the daily life of the faithful. However, they can be difficult to comprehend and cause considerable challenges in their application, especially in a country where the majority of the population is non-

Christian. As not all canonical questions can be answered in universal law, specific cultural circumstances need to be properly addressed in the particular law of the local Church. The present thesis offers some specific proposals in this regard. Chapter Three explains the canonical consequences of marriage impediments of the 1983 Code and examines particular circumstances that might likely inhibit Thai people from entering into a valid marriage. The thesis strongly advocates that the Catholic Bishops' Conference of Thailand promulgate a new particular legislation on mixed marriages and disparity of worship marriages, as the content of the 1992 legislation has never been revised or updated to reflect accurately the present situation.

The thesis argues that the Catholic Church in Thailand ought to study continuously the question of pastoral care of the marriages between Catholics and Buddhists in order to understand and offer meaningful guidance for those who minister to these couples. Parish priests who come into contact with any Catholic-Buddhist couple should respond to them positively as the spouses learn to live as a family with different faith experiences. A compassionate priest will contribute considerably to the couples' happiness by explaining with a pastoral heart the Catholic meaning of marriage. This will correspond well to the Church's task of evangelization, particularly the evangelization of the Buddhist community in Thai society.

Traditionally, Thai people get married in a Thai wedding ceremony. A Catholic who marries a Buddhist often holds this ceremony because of societal pressures. This study found that there is no official explanation from the CBCT regarding the Thai wedding ceremony. In an attempt to offer a pastoral approach to the question of celebrating both the Catholic rite of marriage and the Thai wedding ceremony,

I recommend that the CBCT appoint a specific committee to study the matter and provide official instructions to pastors and ministers who assist Catholic-Buddhist couples in preparation for marriage. These instructions will also help parish priests to have a better understanding of the Thai wedding ceremony.

The Church has foreseen that the couples in a disparity of worship marriage need pastoral care in their own region. Because each country or community has its own customs or practices, the local Church generally has a better understanding of particular issues facing families in a disparity of worship marriage than does the universal Church. Furthermore, canon 1064 states that it is the obligation of the local ordinary to provide proper marriage preparation programs for their community. Therefore, the author of the thesis recommends that CBCT provide specific guidelines, applicable to each diocese, to assist Catholic-Buddhist couples. It is necessary that each diocese has a diocesan marriage policy for guiding both parties who plan to enter into such a marriage. Each diocese should ensure a marriage preparation program is available not only at the diocesan center, but in each deanery and in every parish due to the difficulties of travel from remote parts of the diocese. As well, the CBCT should provide more programs and pastoral care activities for Catholic-Buddhist couples after their marriage.

This study maintains that the 1992 pre-marital investigation form of the CBCT should be revised. The goals of the revision would be four-fold: firstly, to modernize the questions so that parish priests or whoever is involved in preparing couples for marriage has a clear understanding of the questions; secondly, to ensure that the Catholic party understands the essential properties of marriage in order to fulfill their promises; thirdly, to guarantee that the Buddhist party is properly informed of the obligations and duties of

the Catholic party before they marry; and fourthly, to improve the success rate for marriages in Thailand.

This work has highlighted the potential for a negative reaction from the Buddhist party. During the pre-marital investigation, the Buddhist party is to be informed of the promises of the Catholic party. However, the Buddhist party sometimes accepts these conditions, but after the marriage does not allow the Catholic party to practice their faith or to have their children baptized and educated in the Catholic faith. This study suggests that the parish priest is responsible to help the couple understand their duties and accept the differences between their religions.

In the final analysis, it can be noted that the research questions have been answered. We can conclude that the responsibility for pastoral care of marriages between Catholics and Buddhists is entrusted to the local Church of Thailand. This responsibility requires individual ministers to learn from primary resources and to spend time to improve their ability to help such couples. Those who are involved with disparity of worship marriages must be formed and trained in accordance with the requirements of the proper and universal documents of the Church and canon law. In view of the realities in each diocese in Thailand, a marriage preparation program of every diocese is to be drawn up with consideration for its community and in view of the socio-cultural context of Thai people which is deeply influenced by Buddhist tradition.

The Church in Thailand continues to face new challengers for the family life of its Catholics. The official teaching on marriage and canon law must always be the main source used to answer questions regarding Catholic-Buddhist marriages as well as for guiding the pastoral care of such unions. This official teaching should be interpreted by

the local Church with the understanding of the Buddhist context. Those who are involved with Catholic-Buddhist marriages need to continue their training and updating of their knowledge to help more effectively these families. It is hoped that Thai Catholics will live in happy marriages and provide a unique opportunity and good witness as they share the Good News with their spouses and the Buddhist community who profess a different faith.

APPENDICES

APPENDIX 1

DECREE NUMBER 11

Preparation and Investigation before Marriage

In accordance with the prescription of canon 1067, the Catholics' Bishop Conference of Thailand hereby decrees that the followings are to be observed before assisting at a marriage:

- 1) use the investigation form prescribed by the Bishops' Conference of Thailand.
- 2) the investigation must be done at least one month before the marriage.
- 3) the marriage banns are to be published on at least two Sundays consecutively, even in the case of marriages between Catholics and non-Catholics, and also in case of validation of marriage, unless there is sufficient reason for doing otherwise, but this decision is at the discretion of the Bishop of the place where the parties have domicile.

APPENDIX 2

DECREE NUMBER 12

Minimum age for Marriage

In accordance with the prescription of canon 1083, §2, the Catholic Bishops' Conference of Thailand hereby decrees that the minimum age for a lawful marriage before the Catholic Church in Thailand shall be 17 years complete for both parties.

In particular cases, the local Ordinary may dispense from this decree after having consulted with the pastor(s) of the Catholic party or parties (cf. canon 88).

APPENDIX 3

DECREE NUMBER 13

Declaration and Promises in case of Mixed Marriage

In accordance with the prescription of canon 1126, the Catholic Bishops' Conference of Thailand hereby decrees as follows:

- 1) the Catholic party is to declare that he or she is prepared to remove dangers of defecting from the faith, and is to make a sincere promise to do all in his or her power in order that all the children be baptized and brought up in the Catholic Church, the manner of these declarations are to be made in writing before the parish priest or his delegated priest;
- 2) the other party is to be informed in good time of these promises to be made by the Catholic party, so that it is certain that he or she is truly aware of the promise and of the obligation of the Catholic party, he or she is to sign the name before the parish priest or his delegated priest showing he or she recognizes the declaration and promise of the Catholic party;
- 3) both parties are to be instructed about the purposes and essential properties of marriage by the parish priests or the persons duly delegated;
- 4) the above mentioned norms are to be applied also the case of disparity of worship.

APPENDIX 4



Roman Catholic Archdiocese of Bangkok

Church _____ Year _____

Pre - Marital Investigation

(Certified by the Bishop's Conference of Thailand

in accordance with c. 1067)

Groom

Bride

File number _____

Pre - Marital Investigation

Groom _____

Bride _____

Witnesses 1. _____

2. _____

Day of Wedding _____

(The priest must give the questions and fill the answers himself; bride and groom must answer the inquiry form separately.)

Bride and groom must be informed about the solemnity and the obligation of the vow. Then, each must lay hand on the Bible and pledge an oath as follows:

“I _____ pledge an oath to tell the truth in answering each question.”

Questions

A. General Information

1. Name and Last name _____

2. Date of birth _____ (D/M/Y)

Place of birth _____

3. Present address _____

_____ Telephone _____

Duration of residence _____

Permanent address (as in house registration)

4. Nationality _____ Occupation _____

5. Religion _____ Dominion _____

6. Marital status () single () widowed

7. Date of Baptism _____ (D/M/Y) Church _____

8. Have you received other sacraments? () Yes () No

If yes, what kind () Penance () Communion () Confirmation

9. Do you have regular religious practice? _____

10. Father's name and last name _____
 _____ Religion _____
 Mother's name and last name _____
 _____ Religion _____
 Address of father and mother _____
 _____ Telephone _____

11. Name and last name of the would – be spouse _____
 _____ Religion _____
 Address _____
 _____ Telephone _____
 Place of wedding ceremony _____

B. Information on Church Law

12. Have you previously been engaged to somebody else? ☐ Yes ☐ No
 If yes, how was it arranged? ☐ ecclesiastical ceremony
☐ traditional ceremony ☐ civil ceremony
 Has the engagement been called off? ☐ Yes ☐ No
 If yes, how was it settled? ☐ Mutual consent
☐ With the acknowledgement of the parish priest
☐ With the acknowledgement of both families

13. Have you ever been married? ☐ Yes ☐ No
 If yes, how was the wedding arranged? ☐ ecclesiastical ceremony
☐ traditional ceremony ☐ civil ceremony
 Name and last name of former spouse _____
 Date and place of the wedding ceremony _____ (D/M/Y) _____
 Has your previous marriage been dissolved? ☐ Yes ☐ No
 If it has been dissolved, how?
☐ The annulment has been declared by the marriage tribunal
☐ Ex-spouse passed away
☐ Received the Petrine privilege
☐ Received the Pauline privilege
 (The approval certificate of the diocese's bishop is required)
☐ Legally divorced (Divorce certificate is required)

14. Has this marriage been approved by your parents? ☐ Yes ☐ No
 (If you are under the age of 18 and considered a minor, a written consent of the parent(s) is required)

15. After you were 14 years old (the groom), or 12 years old (the bride), did you stay anywhere longer than 6 months? ☐ Yes ☐ No.
 If yes, where did you stay? _____

16. Are you giving your consent to this marriage voluntarily and freely? _____
17. Did you know that your would-be spouse is freely giving his/her consent to this marriage? _____
18. Are you related in any way to your spouse?
 If yes, in what relation?
☐ Consanguinity: Direct line
 The degree of direct line _____
☐ Consanguinity: Collateral line
 The degree of collateral line _____
☐ Affinity: Direct line
 The degree of direct line _____
☐ Legal relative (adopted child, foster sibling)
 Direct line ☐ Collateral line ☐
 The degree of direct line or collateral line _____
19. You must realize that the following impediments will make the marriage become null, invalid or unlawful:
 A. Impotence
 B. Mixed marriage: "Marriage between a Catholic and a Christian of different dominion)
 C. Disparity of cult: Marriage between a Catholic and an unbaptized person
 D. Marriage of one in sacred orders
 E. Marriage of one who takes a public vow of perpetual chastity
 F. An impediment of Crime: one party previously conspired to marry upon condition of the death of his/her spouse while still married.
 G. Marriage by abduction
 H. Other reasons _____
20. Do you have any of the above impediments? ☐ Yes ☐ No
 If yes, which one (s)?

C. Information on Catechism

(The priest who conducts the inquiry should explain each teaching of catechism on matrimony in details)

21. Do you have sufficient catechetical education on matrimony?

☐ Yes ☐ No

The teaching that "Marriage is a covenant by which a man and a woman establish between themselves a partnership of the whole life to exchange love to one another and the procreation and the upbringing of offspring to the Catholic belief."

Do you clearly understand this catechism and are well-prepared to enter your marriage life?

() Yes () No

The main characteristics of the matrimony based on the Catholic Catechism are “The Unity and the indissolubility”. Do you understand and accept them? () Yes () No

22. Are you sincere in having the wedding without any intent to oppose to the unity of marriage? _____

23. Are you sincere in having the wedding without any intent to oppose to the indissolubility of marriage? _____

24. Are you sincere to have the wedding without any intent for abortion of your child? _____

25. Are you aware that an important duty of the marriage is to love each other? _____

26. Are you aware that an important duty of the marriage is to bring up the children? _____

27. Additional teachings _____

(Signature)

(Date)

Church Seal

(Signature of Priest)

APPENDIX 5

A Revised Pre-Martial Investigation

Groom _____ ID card# _____

Bride _____ ID card# _____

Witnesses 1. _____

2. _____

Day of Wedding _____

Place of wedding ceremony _____

(The priest must ask the questions and fill in the answers himself; the bride and groom must answer the inquiry form separately.)

The bride and groom must be informed about the solemnity and the obligation of the vow. Then, the Catholic party must lay a hand on the Bible and pledge an oath as follows:

“I _____ pledge an oath to tell the truth in answering each question.”

Questions**A. General Information**

1. Your name, maiden name, and last name _____
2. Date of your birth _____ Place _____
3. Your present address _____
How long have you lived at this address? _____
Telephone _____ Email address _____
4. What is your religion? _____
5. Were you ever baptized? _____ In what religion? _____
Church where you were baptized _____
Proof A) Certificate _____
 Or B) Affidavit of Parents _____
6. Were you ever confirmed in the Catholic Church? If yes, when and where? _____

7. To what parish do you belong? _____
8. Do you attend your church regularly? _____

9. Your father's name Religion
- Your mother's maiden name Religion
10. Full name of the intended spouse
- Religion Address
- Telephone Email address

B. Information on Church Law

11. Have you ever been married?..... If you have married before, has your previous marriage been dissolved or declared null by Church authorities? ()
- () Ex-spouse passed away () The dissolution has been granted () The marriage has been declared null by the marriage tribunal ()
- Has your previous marriage been dissolved/terminated by state authorities? ()
- How?
12. Has your intended spouse ever been married?
13. If your intended spouse has been married before, has his/her previous marriage been dissolved or declared null by Church authorities? ()
- () Ex-spouse passed away () The dissolution has been granted () The marriage has been declared null by the marriage tribunal ()
- Has your intended spouse's previous marriage been dissolved/terminated by state authorities? ()
- How?
14. When did you start dating and become engaged to your intended spouse?
-
15. (If either had a previous spouse who has died) Were you or your intended spouse responsible in any way for the death of the other spouse?
16. Is any person, for instance, your parent, or circumstance, i.e., a financial issue, forcing you to enter this marriage against your will?
- To the best of your knowledge, is any person, for instance, his/her parent or circumstance, i.e., a financial issue, forcing your intended spouse to marry against his/her own will?
17. Are you attaching any conditions, restrictions, or reservations to your consent to this marriage?
-
18. Are you related to your intended spouse?
- A) by blood
- B) by valid marriage to one of his/her relatives
- C) by invalid marriage to one of his/her relatives

D) by legal adoption.....

19. Are you aware of any physical defect that would prevent you from performing the marriage act (impotence)?.....
.....
20. Have you ever suffered a breakdown, or been treated by a doctor for mental or nervous illness?.....
If so, when? How was it resolved?
Are you presently under care of a doctor or counselor for mental or emotional issues? If so, please give details
21. Have you ever been in the priesthood or diaconate or taken a public vow of perpetual chastity in the Catholic Church? If yes, did you receive dispensation from this impediment from the competent authority?.....
22. Have either of your parents any objection to this marriage? If so, what is their objection?
23. Witnesses for marriage :
1) Name.....
What is your relationship to this person?.....
2) Name.....
What is your relationship to this person?.....

C. Information of the Catholic Teaching on Marriage

24. Do you intend to enter a permanent marriage that can be dissolved only by death?.....
.....
25. Do you understand that the properties of marriage are unity and indissolubility?
Do you agree to enter marriage intending these properties?.....
26. Are you open to have children of this union? () Do you admit for yourself the option to abort a child in your marriage?.....
.....
27. *(This question is only for a person who is non-Catholic)* Do you understand and accept the Catholic Church teaching regarding marriage?

(Signature)



(Date)

(Signature of Priest)

APPENDIX 6

A Vow of a Catholic who marries a non-Catholic

Place _____

Date: _____(D/M/Y)

I, (baptismal) name _____ Name _____

Last name _____ Age _____ want to marry

Name: Mr./Miss/Mrs. _____ Last name _____

Age _____ Religion _____

I hereby promise that

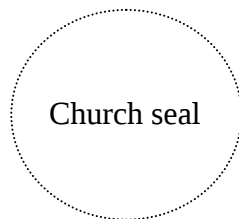
1. I will have a lifelong faithfulness to the Catholic faith and will attempt to get rid of everything that may result in losing my Catholic faith.
 2. I will attempt to have all of my children baptized and raised in Catholic faith, along with the good understanding in the family.
- May God help me to be faithful to my pledge given herein sincerely and honestly.

Signature _____

I _____ acknowledge the vow and the
duty of the Catholic party.

Signature _____

Signature _____



APPENDIX 7

Certification of the status of the Non-Catholic

Place _____
 Date _____ (D/M/Y)

Re: _____

To: Parish priest

I _____
 Present address _____
 Identification: _____ ID card # _____
 Relation:
 () Parent
 () Senior relative
 () Others (Please specify): _____
 Occupation _____
 How long have you known the would-be spouse? _____

I certify that Mr./Mrs./Miss _____
 has never been married, or had no partners before

I certify that all information given is true.

Respectfully,
 (Signature) _____
 (the person giving certification)

I certify that the above information is true.

(Signature) _____
 (non-Catholic spouse)

APPENDIX 8

DECREE NUMBER 8

Norm Concerning the Arrangement of the Catechumenate

In accordance with the prescriptions of canon 788, §3, the Catholic Bishops' Conference of Thailand hereby decree that:

- 1) The catechumenate or its equivalent shall be established where necessary for adults (cf. canon 852, §1). A similar provision shall be made for school-age children who not yet been baptized;
- 2) Only those persons who have received the liturgical rite of admission to the catechumenate shall be considered as catechumens;
- 3) The various steps undertaken by the candidates shall be indicated. These acts shall be signed by the candidate (s) and by the person who presided over the ceremony;
- 4) The candidate shall be integrated into a support group organized for this purpose, so that the experience of ecclesial life can be experienced;
- 5) The prerogatives for the catechumens are the following:
 - a) to be allowed Church funeral rite;
 - b) to be imparted with blessings.

APPENDIX 9



สภาพระสังฆราชคาทอลิกแห่งประเทศไทย
 122/11 ซอยนนทรี 14 ถนนนนทรี เขตยานนาวา กรุงเทพฯ 10120
Catholic Bishops' Conference of Thailand
 122/11 Soi Nonsi 14, Nonsi Rd, Yannawa Bangkok 10120
 Tel. 66 26813900 Ext. 1201-4 Fax : 66 26815301, 66 26815369-70
 E-mail : cbct_th@hotmail.com , thaicbct@cbct.net

Sua Eminenza
Robert Cardinale Sarah
Congregatio de Cultu Divino
Et Disciplina Sacramentorum
Palazzo delle Congregazioni
Piazza Pio XII, 10
00120 CITTÀ DEL VATICANO

Prot. cbct 074/2018

Bangkok 25 maggio 2018

Sua Eminenza,

Mi presento: sono Fra Antonio Valsecchi ofmcap Segretario della Commissione per la Liturgia della Conferenza Episcopale della Thailandia. Sua Eminenza il Card. Francis Xavier Kriengsak Kovithavanij Presidente della Conferenza Episcopale e Presidente della Commissione per la Liturgia, mi ha incaricato di presentare a Vostra Eminenza il seguente caso e per chiedere a Vostra Eminenza indicazioni per la sua soluzione.

La nostra Commissione per la Liturgia sta facendo un notevole sforzo per una traduzione definitiva dei vari rituali dei sacramenti per poter ottenere l'approvazione della Conferenza Episcopale e poi la "confirmatio" da parte della Congregazione. Portando avanti la traduzione dal testo latino del Rito del Matrimonio (ORDO CELEBRANDI MATRIMONIUM, Editio Typica Altera 1991) abbiamo visto che al numero 36 dei Praenotanda e con rimando poi ai numeri 152-178 è stabilito che, se una parte è cattolica e l'altra parte è di una altra religione non ci deve essere la celebrazione eucaristica, ma dopo il rito di accoglienza si passa alla liturgia della parola, al rito del matrimonio, la benedizione dello sposo e della sposa e quindi al rito di conclusione. Ora da tantissimi anni qui in Thailandia, dove i cattolici sono circa 379.000 su 66 milioni di abitanti, di cui 62 milioni di religione buddista, e la maggior parte dei matrimoni sono tra una parte cattolica e una parte buddista, si usa celebrare il matrimonio nella celebrazione eucaristica come si fa quando tutte e due le parti sono cattoliche, evidentemente con la recezione dell'Eucaristia della sola parte cattolica. Ho chiesto al sacerdote, che per 22 anni è stato Segretario della Commissione per la Liturgia, se è stato richiesto qualche

particolare permesso ma ho avuto una risposta negativa. Alla domanda da quanto tempo si fa così, non ha saputo darmi una risposta, mi ha detto che ha sempre visto fare in questo modo.

Nell'ultima Assemblea della Conferenza Episcopale il Presidente ha accennato questo problema ai Vescovi i quali sono rimasti un po' sconcertati, considerando che da molto tempo si fa così e che potrebbero nascere dei problemi da parte dei fedeli se si dovesse cambiare per procedere secondo quanto è scritto nel rituale. In effetti qui in Thailandia al rito del matrimonio, sia quando, raramente, tutte e due le parti sono cattoliche e anche quando una sola parte è cattolica, sono molti i fedeli cattolici che partecipano tra parenti, amici e conoscenti. Devo anche dire che, siccome qui da noi, generalmente la celebrazione della S.Messa della liturgia del matrimonio viene particolarmente curata nei suoi vari momenti, nella parte musicale e dei canti, nel favorire la partecipazione e l'attenzione delle persone convenute e nell'allestimento della chiesa, questa celebrazione risulta essere anche un momento di testimonianza e di evangelizzazione.

Ecco questo è tutto quanto affido alla considerazione di Vostra Eminenza. Sarà possibile ottenere un indulto o un permesso per continuare come si fa ormai da tanto tempo? Nel caso si possa chiedere un indulto la richiesta deve essere fatta dal Presidente della Conferenza Episcopale dopo che l'Assemblea dei Vescovi ha approvato questa richiesta?

Ringrazio Vostra Eminenza per l'attenzione che vorrà prestare a questa nostro problema, e mentre resto in attesa di una Sua risposta voglia gradire i miei più filiali ossequi.

In Fede

Fra Antonio Valsecchi



Fra Antonio Valsecchi OFMCap
Segretario della Commissione per la liturgia
Conferenza Episcopale di Thailandia

APPENDIX 10



CONGREGATIO DE CULTU DIVINO
ET DISCIPLINA SACRAMENTORUM

Prot. n. 259/18

July 17, 2018

Your Eminence,

Thank you for your letter of May 29, 2018, in which you forwarded the request of the Bishops' Conference of Thailand for clarification about the liturgical law concerning the celebration of Matrimony within Mass when one or other of the parties is not baptized.

This Congregation for Divine Worship and the Discipline of the Sacraments has attentively studied Your Eminence's request and appreciates the pastoral concerns that the Bishops have raised given that Catholics make up such a small percentage of the overall population. On the other hand, it is to be borne in mind that the conciliar and post-conciliar reforms established the possibility of celebrating Matrimony within Mass on the presupposition that both parties would be Catholic and hence able to participate fully in the Eucharistic celebration.

Indeed, happily the liturgical reform and the Order itself has been most efficacious in drawing the attention of couples to be married and likewise of the People of God to the nexus between the two sacraments. For this reason, the language of the Order of Matrimony within Mass provides rich baptismal and Eucharistic references.

Number 36 of the *Prenotanda* of the *Order of Celebrating Matrimony* referenced by the Bishops' Conference, does foresee that in individual cases of Marriage between a Catholic and a baptized non-Catholic and with the consent of the local Ordinary, Matrimony within Mass might be authorized. It therefore seems clear that, as the marriage bond would in this case unite two persons in the Sacrament of Holy Matrimony, the basis for celebration of Matrimony within Mass would have been satisfied, namely that the Marriage to take place will indeed be sacramental.

As marriages between a Catholic and a catechumen or a non-Christian must be considered non-sacramental, the logic of the reform has been to structure the Order in a particular way to accord in the best way possible with the pastoral reality without invoking a sacramental imagery that would be imprecise. Celebrants are hence referred to nn. 152-178

His Eminence
Card. Francis Xavier KRIENGSAK KOVITHAVANIJ
Archbishop of Bangkok
President
Bishops' Conference of
Thailand

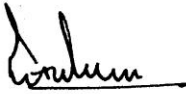
of the Order (i.e., the "Order of celebrating Matrimony between a Catholic and a catechumen or a non-Christian") without exception.

In consequence, this Dicastery sees no way forward with this request, and would ask that the Bishops would instead focus on pastoral initiatives which might encourage the Sacred Pastors to contemplate instead the scheduling of Masses perhaps on the day before such wedding celebrations or even earlier on the day itself. Likewise, in terms of remote preparation for Marriage, the Bishops might consider initiatives that would further encourage the marriages of Catholics with other Catholics.

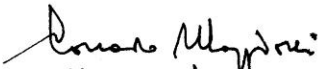
I am hopeful, Your Eminence, that these observations may be of assistance to you.

With every good wish and warm fraternal regard, I am

Sincerely yours in Christ,

+ 

✠ Arthur Roche
Archbishop Secretary


Under Sec.

APPENDIX 11

โครงการสัมมนาฟื้นฟูชีวิตครอบครัว ชั้นที่ 1 (ฟฟ.1)

หลักการและเหตุผล

สภาพสังคมไทยในปัจจุบัน เป็นยุคของความเจริญทางด้านเทคโนโลยีทันสมัย การพัฒนาด้านเศรษฐกิจ ส่งผลให้คุณภาพชีวิต โดยเฉพาะสังคมครอบครัวขาดการดูแลเอาใจใส่เท่าที่ควร จนทำให้มีปัจจัยแวดล้อมที่ก่อให้เกิดปัญหามากมายที่ทำให้ครอบครัวเป็นอันมากต้องอยู่ในสภาพไม่สมบูรณ์ การหย่าร้าง แยกแยก เด็กถูกทอดทิ้ง สามี – ภรรยา ไม่รู้จักบทบาทหน้าที่ของตน ขาดการเตรียมตัวและการเรียนรู้เกี่ยวกับคุณค่าของการมีกระแสเรียกแบบชีวิตครอบครัว

ดังนั้น แผนกส่งเสริมชีวิตครอบครัว อัครสังฆมณฑลกรุงเทพฯ จึงตระหนักถึงการป้องกันและการแก้ปัญหาครอบครัว ไม่ให้ตกอยู่ในภาวะการเผชิญกับปัญหาต่าง ๆ โดยเฉพาะปัญหาการหย่าร้าง ซึ่งทางแผนกฯ จะจัดสัมมนาฟื้นฟูชีวิตครอบครัวชั้นที่ 1 ขึ้น

วัตถุประสงค์

1. เพื่อให้สามี – ภรรยา ตระหนักถึงคุณค่าของชีวิตแห่งความรัก และความหมายของศีลสมรส ตลอดจนศักดิ์ศรีเพศ
2. เพื่อให้สามี – ภรรยา ตระหนักถึงการนำหลักศาสนาไปปฏิบัติอย่างถูกต้อง และมีโอกาสฟื้นฟูจิตใจให้ใกล้ชิดพระมากขึ้น
3. เพื่อให้สามี – ภรรยา ตระหนักถึงความรับผิดชอบต่อครอบครัว และพระศาสนจักร
4. เพื่อให้สามี – ภรรยา ยอมรับและเห็นอกเห็นใจกันในการดำเนินชีวิตครอบครัวและการอบรมเลี้ยงดูบุตร
5. เพื่อให้สามี – ภรรยา ได้เรียนรู้และเข้าใจเกี่ยวกับการวางแผนครอบครัวในแนวคำสอนของพระศาสนจักร

เป้าหมาย

คู่สามี-ภรรยา ที่แต่งงานถูกต้อง (ตามกฎหมาย หรือตามหลักทางศาสนา) ไม่น้อยกว่า 1 ปี

เชิงปริมาณ มีคู่สามี – ภรรยา เข้าร่วมสัมมนาครั้งละ 15-20 คู่

เชิงคุณภาพ คู่สามี – ภรรยา ที่นับถือศาสนาคาทอลิก หรือฝ่ายใดฝ่ายหนึ่ง มีแนวทางในการปรับปรุงตน มีความศรัทธา และเข้าใจบทบาทความรับผิดชอบที่มีต่อครอบครัวเพิ่มมากขึ้น

เนื้อหา 1) คุณค่าของชีวิตมนุษย์และชีวิตครอบครัว 2) ความหมายของการแต่งงานและศีลสมรส 3) ศักดิ์ศรีของเพศและการส่งเสริมชีวิต 4) การสร้างความสัมพันธ์ระหว่างสามี-ภรรยา 5) ปัญหาครอบครัวในปัจจุบัน 6) จิตตารมณ์แห่งการช่วยเหลือเกื้อกูลซึ่งกันและกันระหว่างครอบครัว

APPENDIX 12

DECREE NUMBER 9

Catholic Religious Education in Schools

In accordance with the prescriptions of canon 804, §1, the Catholic Bishops' Conference of Thailand hereby decrees that to provide for the formation and education in the catholic religion in catholic schools, the following provisions are to be observed:

- 1) catholic school that have priests or religious on the staff must see that the same priests or religious carry out the formation and instruction in the Catholic Faith, and those responsible for the school take care that capable people teach the catholic students regularly.
- 2) regarding the qualities of the capable lay teachers who teach the catholic religion in the school must possess the certificate from the Catechetical Centre, and they must be outstanding in true doctrine and uprightness of life.
- 3) those responsible for the school are to arrange regular classes of religious instruction for their catholic students and for non-Catholic students, who freely request it.
- 4) those responsible are to teach all their students in the spirit of the Gospel and accord with the doctrine of the Magisterium of the Church.

APPENDIX 13



สภาพระสังฆราชคาทอลิกแห่งประเทศไทย

122/11 ซอยนวล 14 ถนนนวล เขตยานนาวา กรุงเทพฯ 10120

Catholic Bishops' Conference of Thailand

122/11 Soi Nual 14, Nual Rd, Yananawa Bangkok 10120

Tel. 66 26813900 Ext. 1201-4 Fax : 66 26815301, 66 26813369-70

E-mail : cbct_th@hotmail.com , thaicbct@cbct.net

Bangkok, 25 January 2016

No. CBCT 007/2016

Subject: *Request for approval the Decree of
2015: the First Plenary Council of the Church in Thailand*

Your Eminence,

With reference to your esteemed letter Prot. 4465/14 dated 3 November 2014, Your Eminence as Prefect of the Congregation for the Evangelization of Peoples, by virtue of the Special Faculties granted by the Holy Father Pope Francis, has graciously approved the celebration of the **“2015: First Plenary Council of the Catholic Church in Thailand”** (cfr. can. 439, § I), and the **election of the Most Rev. Francis Xavier Kriengsak Kovithavanij**, Archbishop of Bangkok, **as the President of the same Plenary Council** (cfr. can. 441, n° 3).

The said Plenary Council entitled “Disciples of the Lord Living the New Evangelization” was held from 20 to 24 April 2015, at “Baan Phu Waan”, Pastoral Training Center of the Archdiocese of Bangkok (Encl. 1 – its Timetable).

The procedure of the Plenary Council was developed in regular stages, which I summarize accordingly:

1. Motion of the CBCT to convoke the Plenary Council (Encl. 2), which led to the development of the *Lineamenta* and the *Instrumentum Laboris*;

His Eminence
Fernando Cardinal FILONI
Prefect Congregation for the Evangelization of Peoples
VATICAN CITY

(with 7 Enclosures)

-2-

2. Summarizing the results of the two plenaries of Metropolitans, namely *Bangkok* and *Thare-Nongseng*. All common and particular data of all parts of the local church were used to prepare for the "*Relatio ante disceptationem*", the drafting all suggestions;
3. During the Plenary Council the "*Relatio ante disceptationem*" was discussed and developed into the "*Relatio post disceptationem*" (complete suggestion edition);
4. The Statement from the Plenary Council was announced (Encl. 3);
5. *Propositiones* - all suggestions were presented (Encl. 4);
6. Submission of the *Propositiones* and all relevant documents to the CBCT in order to draft the Decree of Plenary Council.

205 competent persons were invited as representatives from each part of the local Church as indicated by Canon Law (*cfr. can. 443 §§ 1-6*). However, since 21 of the invitees were unable to be present for the Plenary Council (in red colour in the list), 184 persons actually participated in the event (Encl. 5).

On 24 April 2015, 150 participants cast their consultative votes to each of the *propositiones*. 12 bishops did not cast their votes and 22 persons who had leaved of absence did not vote as well. I enclose the results of the council's votes for your information (Encl. 6).

Finally the drafted Decree of the Plenary Council was drawn up from these *propositiones*. It was approved by the members of the Catholic Bishops' Conference of Thailand (CBCT) during their ordinary assembly, with unanimous vote (10/10). I am now very pleased to submit this Decree to Your Eminence and ask for its approval by the authority of the Holy See (Encl. 7 - 6 copies of Decree).

As Your Eminence is aware, our local Church in this region is a small flock of the Lord living among those who do not know Jesus Christ. Therefore this plenary council and its decree will certainly be the instrument we will use as we proclaim His Good News and His Kingdom. As president of the Plenary Council, I entrust the enclosed Decree to Your Eminence for approval.

With sentiments of esteem and prayerful wishes, I am

Yours respectfully in Our Lord

Francis X. Card. Kriengsak Kovithavanij

Francis Xavier Card. Kriengsak KOVITHAVANIJ

Archbishop of Bangkok

President of the CBCT & President of the 2015: Plenary Council



APPENDIX 14



CONGREGATIO
PRO GENTIUM EVANGELIZATIONE

Præf. 0695/16

02 February 2017

Your Eminence,

I am writing with reference to your letter N°. CBCT 007/2016, of 25th January 2016, with which you have forwarded to this Congregation the documentation concerning the "First Plenary Council of the Catholic Church in Thailand", celebrated from 20 to 24 April 2015, and requested the *recognitio* of the Decree of the same Council, entitled "Christ's Disciples Living the New Evangelization", unanimously approved by the Bishops of Thailand.

Having carefully studied the above Decree and obtained a favourable evaluation from those concerned, the Congregation for the Evangelization of Peoples gladly grants the requested *recognitio*, under condition that the modifications contained in the enclosed "Observations" be duly integrated into the text of the said Decree.

This Dicastery also requests you to send here at least three copies of the modified text, after it has been duly promulgated by the President of the of the Plenary Council. I am sure that all the bishops of the Country will earnestly take every necessary and useful step to make this document known to all the Clergy, Religious and lay Faithful in the Country, and to implement it faithfully, in order to give a renewed missionary thrust to the Church in Thailand.

May Almighty God bless you and may our Divine Mother accompany you with maternal solicitude!

I take this opportunity to send you and all the bishops of Thailand cordial regards and best wishes.

Yours devotedly in Christ

A. Card. Kriengsak Kovithavanij
Ref.
 + *Sawatchai*
sec

His Eminence
Francis Xavier Card. Kriengsak Kovithavanij
 Archbishop of Bangkok and President of the CBCT

THAILAND

APPENDIX 15

**Promulgation of the Decree
of the First Plenary Council of the Catholic Church in Thailand,
A.D. 2015**

The Catholic Bishops' Conference of Thailand on March 16, 2011 unanimously agreed to hold the First Plenary Council of Thailand in the year 2015 with the theme: "Christ's Disciples Living the New Evangelization", and the main rationale to set the Church's pastoral and evangelical mission in response to local social developments so as to effectively meet the needs both of the faithful and of our brethren of other faith. This was done on discerning the recent urgent concern for a 'New Evangelization in Asia'. The request to hold this Plenary Council, dated November 3, 2011 was sent to the Congregation for the Evangelization of Peoples for approval. Permission was granted on November 3, 2014 thus:

...“After having carefully studied the text of the *lineamenta* and seriously evaluated the whole matter of the proposed Plenary Council, this Congregation has duly presented the above matter to the Consideration of the Holy Father Pope Francis, who has graciously deigned to approve both the proposed Plenary Council as well as the election of its President.

“Therefore, this Congregation for the Evangelization of Peoples, by virtue of the Special Faculties granted to it by the same Pope Francis, hereby grants the formal approval for the proposed celebration of the “First Plenary Council of the Catholic Church in Thailand” in 2015 (can.439 § 1), and the election of the Most Rev.Francis Xavier Kriengsak Kovithavanij, Archbishop of Bangkok, as the President of the same Plenary Council (can.441, n.3)”...

The first part of the Plenary Council was held on 10-15 November 2014 in the Metropolitan of Tharae-Nongsaeng, and then on 24-29 November 2014 in the Metropolitan of Bangkok. The General Assembly of the Plenary Council was then held at the Pastoral Center of the Archdiocese of Bangkok on April 20-24, 2015. The drafted Decree of the Plenary Council was sent to the Congregation for the Evangelization of Peoples for approval, which was later granted on February 2, 2017. (See the recognitio of the Decree on page 4)

With the consent of the Catholic Bishops' Conference of Thailand held on March 21-23, 2017, I hereby promulgate the Decree of the Plenary Council of the Catholic Church in Thailand for the renewal of the local church at all levels. The bishops, priests, religious and pastoral councils at all levels will be leaders in this renewal effort which will enable every Catholic to be united into local small communities permeated by the civilization of love. Their lives will thus be renewed and transformed into the "Good News". They will dare to proclaim this Good News to the people around them and to the Thai society as a whole.

Let us pray to the Holy Spirit, to enlighten and strengthen all Christ's disciples that they be inspired in the renewal of their faith as profoundly as Mary our Mother, as the apostles and the early Christians. They will dare to go out and proclaim the Good News to the people around them that they might come to know and appreciate it.

You are invited to give time to read, reread and to reflect on the Decree and be moved by the Holy Spirit to respond to His call in order to be "The Community of Christ's disciples living the New Evangelization."



Francis X. Card. Kriengsak Kovithavanij

+ Francis Xavier Cardinal Kriengsak Kovithavanij
President of the Catholic Bishops' Conference of Thailand

Joseph Chusak Sirisut

Bishop Joseph Chusak Sirisut
Secretary General of CBCT

Given on 16th April 2017

The Solemnity of the Risen Lord

APPENDIX 16

ตารางอบรมเตรียมคู่แข่งงานประจำปี 2019

ศูนย์อบรมเตรียมคู่แข่งงานของอัครสังฆมณฑลกรุงเทพฯ
ได้จัดอบรมเตรียมคู่แข่งงาน ในวันอาทิตย์ที่ 3 และ 4 ของทุกเดือน ดังรายละเอียดต่อไปนี้

เดือน	วันที่ (วันอาทิตย์)	หมายเหตุ
มกราคม	20 และ 27	
กุมภาพันธ์	17 และ 24	
มีนาคม	17 และ 24	
เมษายน	งด	ตรงกับสมโภชปัสกา
พฤษภาคม	19 และ 26	
มิถุนายน	16 และ 23	
กรกฎาคม	21 และ 28	
สิงหาคม	18 และ 25	
กันยายน	15 และ 22	
ตุลาคม	20 และ 27	
พฤศจิกายน	17 และ 24	
ธันวาคม	ไม่มีอบรม	

สถานที่อบรม : ห้องประชุมใหญ่ สำนักมิสซังฯ (อาคารด้านซ้ายของตัวโบสถ์อัสสัมชัญ)

เวลาอบรม : 08.30-12.00 น. (เริ่มลงทะเบียนเวลา 08.00-08.30 น.)

ค่าลงทะเบียน : 200 บาท (คู่ละ)

โปรดมาตรงเวลาและการอบรมมี 2 ครั้งต่อเนื่อง

แจ้งจำนวนผู้จะเข้ารับการอบรม โทร. 0-2233-7441, 0-2233-8712, 0-2234-1774, 0-2237-1031, 0-2237-1032
(วันจันทร์-วันศุกร์ เวลา 08.30 น.-17.00 น. และวันเสาร์ เวลา 08.30 น.-12.00 น.)

คุณพ่อวิชา หิรัญญการ (ผู้รับผิดชอบศูนย์อบรมเตรียมคู่แข่งงาน)

สำนักงานวินิจฉัยคดีอัครสังฆมณฑลกรุงเทพฯ

51 ซอยเจริญกรุง 40 (โอเรียนเต็ล) ถนนเจริญกรุง แขวงบางรัก เขตบางรัก กรุงเทพฯ 10500

โทร. 0-2233-7441, 0-2233-8712, 0-2234-1774, 0-2237-1031, 0-2237-1032 โทรสาร 0-2237-0133

ตารางเวลาอบรมเตรียมแต่งงาน

อบรมครั้งที่ 1

08.20 - 08.30 น.	ลงทะเบียน (ค่าลงทะเบียนคู่ละ 200 บาท)
08.30 - 09.30 น.	กฎหมายพระศาสนจักรเกี่ยวกับเรื่องแต่งงาน
10.00 - 10.50 น.	กฎหมายพระศาสนจักรเกี่ยวกับเรื่องแต่งงาน
11.00 - 12.00 น.	ความศักดิ์สิทธิ์แห่งชีวิตสมรสตามหลักศีลธรรม

อบรมครั้งที่ 2

08.30 - 09.30 น.	การควบคุมการเกิดตามวิธีธรรมชาติ
10.00 - 10.50 น.	ชีวิตการครองเรือนและการอบรมเลี้ยงดูบุตร
11.00 - 12.00 น.	กฎหมายไทยเกี่ยวกับเรื่องครอบครัว
12.00 น.	รับประกาศนียบัตร

สถานที่อบรม : ห้องประชุมชั้นล่าง สำนักมิสซังโรมันคาทอลิก ข้างวัดอัสสัมชัญ

โปรดแจ้งจำนวนผู้จะเข้ารับการอบรมได้ที่ประชาสัมพันธ์

สำนักมิสซังกรุงเทพฯ

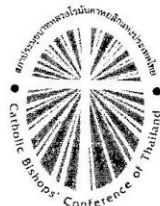
51 ตรอกโอเรียนเต็ล เขตบางรัก กรุงเทพฯ หรือ โทร. 0-2237-1031-2

แจ้งจำนวนผู้ที่เข้ารับการอบรมกับ : คุณอภิญา (หน้อย) บุญลาภ

ผู้รับผิดชอบการอบรม : คุณพ่อ วิชา หิรัญญการ

APPENDIX 17

1



เลขที่ สสท. 0222/2019

ประกาศจากสภาประมุขบาทหลวงโรมันคาทอลิกแห่งประเทศไทย
เรื่อง จาริต ศีลสมรส และ พิธีสมรส ตามธรรมเนียมคริสตชนคาทอลิก

อวยพรมายังคุณพ่อ นักบวชชาย-หญิง ผู้อภิบาล และพี่น้องสัตบุรุษคาทอลิกทุกท่าน

คณะกรรมการคาทอลิกเพื่อพิธีกรรมภายใต้สภาประมุขบาทหลวงโรมันคาทอลิกแห่งประเทศไทย ได้ศึกษาทบทวนกฎเกณฑ์ด้านพิธีกรรมสากลและธรรมเนียมการปฏิบัติของคริสตชนคาทอลิกเกี่ยวกับการสมรสแล้ว เห็นว่าควรปรับขั้นตอนพิธีเพื่อให้สอดคล้องกับพิธีสมรสตามจาริตพิธีกรรมศักดิ์สิทธิ์ของพระศาสนจักร จึงประกาศมาเพื่อการปฏิบัติร่วมกัน ดังนี้

1. ความหมายของศีลสมรส และ พิธีสมรส มีลักษณะดังนี้

- 1.1 พระศาสนจักรคาทอลิกถือว่าการสมรสระหว่างคริสตชนคาทอลิกกับคริสตชนคาทอลิก เป็นศีลศักดิ์สิทธิ์ (The Sacrament of Matrimony) เรียกภาษาไทยว่า ศีลสมรส การประกอบพิธีปกติกระทำระหว่างพิธีบูชาขอบพระคุณศีลสมรส กล่าวคือหลังจากประธานในพิธีเทศน์จบแล้ว
- 1.2 การสมรสระหว่างคริสตชนคาทอลิกกับคริสตชนนิกายอื่นที่ล้างบาปในพระนามของพระตรีเอกภาพ เป็นศีลสมรสที่ถูกต้องตามกฎหมายพระศาสนจักร และมีข้อผูกมัดทั้งทางกฎหมายธรรมชาติ (Natural Law or natural bond) และทางกฎหมายพระศาสนจักร (Canon Law) การประกอบศีลสมรสนั้น ขึ้นอยู่กับดุลพินิจของบิชอป สมณะผู้ปกครองที่จะกำหนดให้ประกอบศีลสมรสระหว่างพิธีบูชาขอบพระคุณ หรือ ก่อนหรือหลังพิธีบูชาขอบพระคุณ (เทียบ เอกสารของคณะกรรมการพิธีกรรมแห่งประเทศไทย พิมพ์เมื่อวันที่ 1 ตุลาคม ค.ศ. 1992 ข้อ 8)
- 1.3 การสมรสระหว่างคริสตชนคาทอลิกกับผู้ที่นับถือศาสนาอื่นที่ไม่ได้รับศีลล้างบาป แม้จะไม่ใช่ศีลศักดิ์สิทธิ์แต่ถือเป็นพิธีสมรสที่ถูกต้องตามจาริต

พิธีกรรมศักดิ์สิทธิ์และตามกฎหมายพระศาสนจักร และมีข้อผูกมัดทั้งทางกฎหมายธรรมชาติ (Natural Law or natural bond) และทางกฎหมายพระศาสนจักร (Canon Law)

โดยการอ้างอิงจากเอกสารของสมณกระทรวงพิธีกรรมและศีลศักดิ์สิทธิ์ เลขที่ 259/2018 ลงวันที่ 17 กรกฎาคม ค.ศ. 2018 ในมุมมองเพื่อประโยชน์ทางชีวิตฝ่ายจิตของการอภิบาลของพระศาสนจักรท้องถิ่นได้แนะนำว่า ขอให้ประมุขแห่งเขตศาสนปกครองมุ่งให้ความสำคัญในพันธกิจแห่งการอภิบาลสัตบุรุษ กล่าวคือส่งเสริมผู้อภิบาลให้กำหนดอย่างชัดเจนและถูกต้องตามจารีตพิธีกรรมเกี่ยวกับพิธีการสมรส และให้มีการประกอบพิธีบูชาขอบพระคุณ (มิสซาสุขสำราญ) ได้ ก่อนหรือหลังโดยแยกแ่กันแห่งพิธี แต่อาจกระทำอย่างต่อเนื่องสำหรับพิธีสมรสระหว่างคริสตชนคาทอลิกกับผู้นับถือศาสนาอื่น ซึ่งอาจปฏิบัติได้ดังนี้

- 1.3.1 เริ่มต้นโดยการประกอบพิธีสมรส และเมื่อเสร็จพิธีแล้วสามารถกระทำพิธีบูชาขอบพระคุณ (มิสซาสุขสำราญ) ต่อไปได้ (โดยพิธีกรรมทั้งสองแยกออกจากกันอย่างชัดเจน เช่นการใช้อาภรณ์พิธีกรรมที่ต่างกัน - เสื้อคลุมยาวที่เรียกว่ากัปปา (cappa) ใช้สำหรับพิธีสมรส และเสื้อกาซูลาใช้สำหรับพิธีบูชาขอบพระคุณ) หรือ
- 1.3.2 เริ่มต้นด้วยพิธีบูชาขอบพระคุณ (มิสซาสุขสำราญ) และเมื่อจบพิธีบูชาขอบพระคุณ ประธานเปลี่ยนอาภรณ์ แล้วจึงประกอบพิธีสมรส หรือ
- 1.3.3 นอกจากจะประกอบพิธีมิสซาสุขสำราญในวันเดียวกันกับที่ประกอบพิธีสมรสแล้ว คู่สมรสยังอาจเลือกขอให้ประกอบพิธีมิสซาดังกล่าว ก่อนวันทำพิธีสมรส หรือ หลังวันพิธีสมรส ก็ได้

ข้อสังเกตที่สำคัญจากตัวเลือกดังกล่าวข้างต้น คือ

- ก. เจตนารมณ์ของสมณกระทรวงพิธีกรรมและศีลศักดิ์สิทธิ์ ต้องการให้แยกระหว่างพิธีสมรส กับพิธีบูชาขอบพระคุณ (มิสซาสุขสำราญ) ซึ่งเป็นพิธีกรรมสองอย่างออกจากกัน (เช่นเดียวกับการทำพวรดวยเกียรติแต่พระมารดานิจจานุเคราะห์กับพิธีบูชาขอบพระคุณ แต่อาจทำต่อเนื่องได้ โดยมีการ

แยกพิธีกรรมที่เห็นเด่นชัด เช่น การใช้อาภรณ์ที่ต่างกัน โดยที่ผู้ประกอบพิธีมีช่วงหยุดเพื่อเปลี่ยนอาภรณ์)

ข. การประกอบพิธีสมรสนั้นต้องกระทำภายในวัด ยกเว้นจะมีเหตุผลอันสำคัญที่จะกระทำนอกวัด โดยได้รับการอนุมัติจากผู้มีอำนาจของพระศาสนจักร

2. พิธีสมรส ตามลักษณะของข้อ 1.3 การประกอบพิธีกรรมพึงปฏิบัติดังนี้

ตามสภาพความเป็นจริงของการอภิบาลสัตบุรุษของพระศาสนจักรในประเทศไทย การแต่งงานของคริสตชนคาทอลิกส่วนใหญ่จะอยู่ในรูปแบบ “ต่างคนต่างถือ” ดังที่ระบุไว้ในข้อ 1.3 กล่าวคือ การสมรสระหว่างคริสตชนคาทอลิกกับผู้กำลังเรียนคำสอนเพื่อเตรียมตัวเป็นคาทอลิกที่เราเรียกว่า “คริสตชนสำรอง” (Catechumen) หรือ กับผู้ที่นับถือศาสนาอื่น กรณีเช่นนี้การประกอบพิธีสมรสจะมีก่อนหรือหลังมิสซาบูชาสำคัญ ซึ่งการประกอบพิธีสมรสจะปฏิบัติตามขั้นตอนพิธีกรรม ตามที่ระบุไว้ในหนังสือจารีตพิธีกรรมของพระศาสนจักรแบบที่ 3 ข้อ 152 – 178 ดังนี้

- พิธีต้อนรับคู่บ่าวสาว และประธานกล่าวปราศรัยเพื่อให้ทุกคนเตรียมจิตใจสำหรับพิธีสมรส
- วจนพิธีกรรม (บทอ่านอย่างน้อย 1 บทที่เกี่ยวกับการสมรส) บทอ่านอื่นๆ จะนำมาอ่านในพิธีมิสซาบูชาสำคัญ
- ประธานในพิธีเทศน์เตือนใจ
- ประธานในพิธีกล่าวปราศรัยกับคู่บ่าวสาว
- คำถามก่อนการแสดงความสมัครใจ
- การแสดงความสมัครใจ
- ประธานในพิธีกล่าวรับความสมัครใจ (เชิญชวนผู้ร่วมพิธีให้ถวายพรแด่พระเจ้า)
- การเสกแหวนและการสวมแหวน (ผู้ร่วมพิธีอาจขับร้องเพลงสรรเสริญพระเจ้า)
- บทภาวนาอวยพรคู่บ่าวสาว (หรือสวดบทภาวนาสำหรับคู่สมรสใหม่)
- บทภาวนาเพื่อมวลชน
- บทข้าแต่พระบิดาของข้าพเจ้าทั้งหลาย
- ประธานอวยพรปิดพิธี (ลงนามในทะเบียนสมรสที่โต๊ะซึ่งจัดไว้ในบริเวณที่เหมาะสม) จากนั้นจึงแห่ออก

APPENDIX 18

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ภาคผนวก
พิธีสมรสตามประเพณีไทย
หลังพิธีทางศาสนา

สภาพระสังฆราชฯ แห่งประเทศไทย มีมติให้แยกพิธีทางศาสนา ซึ่งเป็น
 ตอนนิตยภัตหรือพิธีสมรสเอง โดยให้ปฏิบัติแบบกรูโรไม่เปลี่ยนแปลง กับ พิธีเป็น
 ประเพณีสมรสแบบไทย ซึ่งคริสตชนชาวไทย อาจถือปฏิบัติได้หลังจากพิธีการทาง
 ศาสนาเสร็จสิ้นแล้ว ทั้งนี้โดยไม่ถือว่าเป็นการบังคับให้ต้องปฏิบัติ และให้สุดแล้วแต่
 ประเพณีของแต่ละภาค แต่ละเผ่าหรือกลุ่มชน

ตัวอย่างที่จะให้ต่อไปนี้ เป็นเพียงข้อเสนอแนะที่เป็นกลางๆ ขอให้พระ-
 สังฆราช และเจ้าอาวาสแต่ละแห่งวินิจฉัย และปฏิบัติตามหรือดัดแปลงให้เหมาะสม
 โดยคำนึงถึงความถูกต้อง และความสอดคล้องกับความเชื่อของศาสนาคาทอลิกด้วย
 และควรอธิบาย และเตรียมจิตใจสัตบุรุษให้ทราบถึงเหตุผลที่เปลี่ยนแปลงด้วย

ทั้งนี้ จนกว่าจะเปลี่ยนแปลงเป็นอย่างอื่น หรือดัดแปลงพิธีให้เข้าถึงแก่น
 แท้มากกว่านี้ ในเวลาอันเหมาะสมต่อไป

หลังจากประกอบพิธีทางศาสนาแล้ว อาจจัดห้องใดห้องหนึ่งที่สมควรเป็น
 ห้องพิธี และเป็นห้องโดยเฉพาะ ไม่ปะปนกับห้องรับแขก ไม่ต้องเป็นห้องใหญ่ก็ได้
 มีประตูเข้าออกได้คนละทางยังดี และมีการตกแต่งตามสมควร

ถ้าเป็นไปได้ ยอยากเสนอให้ทางวัดจัดสถานที่พิเศษสำหรับทำพิธีสมรสตามประเพณีไทย ในกรณีจำเป็น จะทำในโบสถ์ก็ได้ แต่ต้องตกลงกันให้เรียบร้อย ถ้าทำพิธีในโบสถ์มี ข้อเสนอแนะให้ประธาน (อาจเป็นพระสงฆ์หรือผู้ใหญ่ก็ได้ถ้าเป็นพระสงฆ์ให้ใส่ชุดขาวยาว) เจ้าภาพจะเชิญผู้ใหญ่ที่เป็นประธานมาประกอบพิธีนำดังนี้

1. กราบพระพุทธรูป (ตั้งโต๊ะหมู่บูชาในห้องสมรส มีทางเข็น เทียน ดอกไม้)
2. รับพวงมาลัยสวมให้คู่บ่าวสาว
3. รับมงคลคู่มาจบประณมมืออธิษฐาน ต่อหน้าบ่าวสาว ขอให้สำคัญใจว่าชีวิตทั้ง 2 จะสัมพันธ์กันอยู่ด้วยมงคลคู่นี้ตลอดกาล เสร็จแล้วสวมที่ศีรษะของคู่บ่าวสาวคนละข้าง
4. รับสัจับรรจุน้ำเสกมารดบนมือบ่าวสาวที่พนมรับอยู่พร้อมทั้งอวยชัยให้พรตามสมควร
5. รับโถแบ่งกระแจะ เอานมมือขวาแตะแบ่งที่ผสมน้ำหอม และน้ำเสกไว้แล้วพอดินว แล้วเจิมและลงที่หน้าผากของบ่าวสาวคนละ 1 แต้มหรือ 3 แต้มก็ได้ เท่านั้นเป็นอันเสร็จพิธี

ต่อจากนั้นเชิญแขกเข้ารดน้ำตามลำดับ โดยให้แขกรับแต่สังข์น้ำเสก แล้วรดลงบนมือของบ่าวสาวเท่านั้น จนทั่วแขกทุกคน ระหว่างที่รดน้ำสังข์นี้ บ่าวสาวต้องแสดงความเคารพผู้รดน้ำให้พรตนทุกคน ตั้งแต่ผู้เป็นประธานมาโดยลำดับ โดยพอร์ดเสร็จก็ก้มศีรษะเล็กน้อยเท่านั้น

เมื่อแขกรดน้ำกันทั่วแล้ว ผู้เป็นประธานเข้ามาประกอบพิธีถอดมงคลอีกครั้งหนึ่ง โดยมายืนตรงหน้าบ่าวสาว มือที่ 2 จับมงคลบนศีรษะของบ่าวสาวข้างละมือ กล่าวคำอวยชัยให้พรพอสมควร แล้วยกมงคลขึ้นจากศีรษะบ่าวสาวพร้อมๆ กัน เป็นอันเสร็จพิธี ให้บ่าวสาวลุกจากที่ได้ ●

APPENDIX 19

A Pastoral Letter Explaining the Guidelines for Catholics about Their Participation in Liturgies of Other Religions

จดหมายอภิบาลของสภาพระสังฆราชคาทอลิก
แห่งประเทศไทยว่าด้วยแนวทางการเข้าร่วมพิธีกรรมศาสนาอื่น

เจริญพรมายังพี่น้องคริสตชนทั้งหลาย

พี่น้องย่อมตระหนักดีว่า สถานการณ์ของสังคมในปัจจุบันเปลี่ยนแปลงไปจากอดีตมาก อาจทำให้คริสตชนคาทอลิกไม่แน่ใจว่าจะปฏิบัติอย่างไร เกี่ยวกับการเข้าร่วมพิธีกรรมศาสนาอื่น เช่น การดื่มน้ำ การไหว้ พระพุทธรูปหรือการไหว้เจ้าเหล่านี้ เป็นต้น เราจึงขอมอบจดหมายอภิบาลนี้เป็นแนวทางเพื่อช่วยเหลือพี่น้องในการตัดสินใจเกี่ยวกับการเข้าร่วมพิธีกรรมศาสนาอื่น

ต่อไปนี้เป็นแนวทางกว้างๆ ที่พี่น้องควรจะเรียนรู้เพื่อนำไปปฏิบัติอย่างถูกต้อง โดยเฉพาะอย่างยิ่งสำหรับผู้ที่ต้องเผชิญปัญหาในการเข้าร่วมพิธีกรรมศาสนาอื่น ด้วยเหตุผลอย่างใดอย่างหนึ่ง เช่น โดยตำแหน่งหน้าที่ การงานหรือมีคู่สมรสที่มีได้เป็นคาทอลิกตั้งนี้เป็นต้น ส่วนผู้ที่ไม่ต้องเผชิญปัญหาดังกล่าวก็จะได้รับรู้ เรียนรู้ และเข้าใจแนวทางปฏิบัติที่ถูกต้องด้วย

แนวทางกว้าง ๆ ที่เราขอมอบให้พี่น้องมี 2 ข้อคือ

ข้อที่ 1 คริสตชนต้องทราบก่อนว่า การเข้าร่วมพิธีกรรมศาสนาอื่นมิใช่เป็นสิ่งที่ไม่ได้ไปเสียทั้งหมด ทั้งนี้เพราะว่าการเข้าร่วมพิธีกรรมใดๆ จะทำได้หรือไม่นั้น ไม่ได้ขึ้นกับเนื้อหาสาระของการกระทำ และสภาพแวดล้อมเพียงอย่างเดียว แต่ยังขึ้นกับเจตนาของผู้กระทำเป็นสำคัญอีกด้วย หมายความว่า เนื้อหาสาระของพิธีกรรม สภาพแวดล้อม และเจตนาของผู้เข้าร่วมพิธีต้องดีพร้อม 3 อย่างจึงจะร่วมพิธีได้

ข้อที่ 2 คริสตชนต้องทราบด้วยว่า การร่วมพิธีกรรมนั้นมี 2 อย่างคือ การอยู่ในพิธี (passive participation) และการเข้ามีส่วนร่วมในพิธี (active participation)

การอยู่ในพิธี หมายถึง การอยู่ในสถานที่ที่มีการประกอบ พิธีกรรมโดยคนมิได้มีบทบาททำอะไรในพิธีนั้น ในกรณีเช่นนี้ คริสตชนสามารถอยู่ในพิธีได้โดยวางตัวด้วยความสุภาพเรียบร้อย

การเข้ามีส่วนร่วมในพิธี หมายถึง การทำอะไรบางอย่างตามที่กำหนดไว้ในพิธีกรรมนั้นๆ ในกรณีเช่นนี้ คริสตชนพึงละเว้นการมีส่วนร่วมในพิธี ทั้งนี้เพื่อคงไว้ซึ่งเอกลักษณ์ของการเป็น คริสตชน อย่างไรก็ตามในกรณีที่คนหนึ่งต้องเข้ามีส่วนร่วมในพิธี เราขอแนะนำว่า ก่อนตัดสินใจ จะต้องเรียนรู้เสียก่อนว่าสิ่งที่ตนจะทำนั้น ทำได้หรือไม่ ได้ดีหรือไม่ดี โดยตอบคำถามต่อไปนี้เสียก่อน คือ

- ก) ฉันกำลังปฏิเสธความเชื่อคาทอลิก และขัดต่อคำสอนคาทอลิกหรือไม่
- ข) การกระทำของฉันเป็นที่สะดุดแก่บุคคลอื่นที่เป็นคาทอลิก หรือศาสนิกชนอื่นๆ โดยเฉพาะคนที่เป็นสมาชิกศาสนานั้นหรือไม่

ในกรณีที่ตอบว่า “ไม่” ทั้งสองคำถาม เขาสามารถเข้ามีส่วนร่วมในพิธีได้ ส่วนในกรณีที่ตอบว่า “ใช่” ไม่ว่าในคำถามข้อใด เขาก็ไม่อาจเข้าร่วมพิธีได้ มิฉะนั้นจะถือว่าเป็นการกระทำที่ผิด ในกรณีสงสัยให้ปรึกษากับพระสงฆ์หรือผู้แนะนำวิญญาณ

ขอให้สังเกตว่า การเป็นที่สะดุด เป็นเรื่องหนึ่งที่สำคัญเช่นกัน ขอพี่น้องจงระวังอย่าให้เกิดขึ้น นักบุญเปาโลได้เขียนจดหมายเตือนชาวโครินธ์ เกี่ยวกับเรื่องการรับประทานเนื้อสัตว์ที่บวงสรวงถวายในสักการสถาน ท่านขอร้องให้คริสตชน ที่เห็นว่าการรับประทานเนื้อดังกล่าวโดยไม่รู้สึกลึกคิดในมโนธรรม ได้ละเว้นการรับประทานเนื้อนั้นเพราะเห็นแก่พี่น้องที่มีมโนธรรมอ่อนแอกว่า ท่านกล่าวว่า “*ไม่ควรทำอะไรให้เป็นที่สะดุดแก่ใครเลย ไม่ว่าจะเป็นยิว กรีก หรือพระศาสนจักรของพระองค์*” (1 คร 10:32)

สุดท้าย เราขอเตือนพี่น้องคริสตชนทุกคน พึงมุ่งมั่นที่จะปฏิบัติศาสนาของตนอย่างเคร่งครัด และด้วยความจริงใจ แต่ขณะเดียวกัน ก็ให้เกียรติ และเคารพพี่น้องศาสนาอื่น ตามเจตนารมณ์ของพระวรสาร และตามคำสอนของพระศาสนจักร พร้อมทั้งยอมรับว่า แต่ละศาสนาก็มีคุณลักษณะดีเด่นเป็นเอกลักษณ์เฉพาะของตน ทั้งทางด้านคำสอนและพิธีกรรม

ให้ไว้ ณ วันสมโภชปีศา 3 เมษายน ค.ศ. 1994

ขอพระพรของพระคริสตเจ้าผู้ทรงกลับคืนชีพสถิตอยู่กับพี่น้องทุกคน

พระคาร์ดินัลมีชัย กิจบุญชู
ประธานสภาพระสังฆราชคาทอลิก
แห่งประเทศไทย

พระสังฆราชเทียนชัย สมานจิต
เลขาธิการสภาพระสังฆราชคาทอลิก
แห่งประเทศไทย

APPENDIX 20

Decree of Promulgation

On November 18, 1998, the Latin Rite *de iure* members of the National Conference of Catholic Bishops approved complementary legislation for canon 1067 of the Code of Canon Law for the Latin Rite dioceses of the United States.

The action was granted *recognitio* by the Congregation for Bishops in accord with article 82 of the Apostolic Constitution Pastor Bonus and issued by decree of the Congregation for Bishops signed by His Excellency Most Reverend Giovanni Battista Re, Prefect, and His Excellency Most Reverend Franciscus Monterisi, Secretary, and dated September 30, 2000.

Complementary Norm: The National Conference of Catholic Bishops, in accord with the prescriptions of canon 1067 and with due regard for canon 1068, hereby decrees that the following norms shall be observed in preparation of a couple for marriage:

- 1) The couple should receive appropriate education and pastoral preparation through participation in a marriage preparation program approved by the diocesan bishop;
- 2) Parties should be questioned as to their freedom to marry;
- 3) Baptized Catholics should present a recently issued annotated baptismal certificate;
- 4) Where necessary, additional documentation (such as affidavits of parents) attesting to a Catholic party's freedom to marry should be presented;
- 5) Baptized non-Catholics should present satisfactory proof of baptism and freedom to marry;
- 6) Unbaptized persons should present satisfactory proof of freedom to marry;
- 7) Preparation for marriage should be in conformity with the prescriptions of canon 1063 (regarding what must precede marriage) and canons 1064, 1071, 1072, 1086, §2 and 1125, which entrust certain situations to the special care of local ordinaries;
- 8) Preparation for marriage should be in compliance with appropriate civil laws.

As President of the National Conference of Catholic Bishops, I hereby decree that the effective date of this decree for all the Latin Rite dioceses in the United States will be December 1, 2000.

Given at the offices of the National Conference of Catholic Bishops in Washington, DC, on October 20, 2000.

Most Reverend Joseph A. Fiorenza
Bishop of Galveston-Houston
President, NCCB

Reverend Monsignor Dennis M. Schnurr
General Secretary

SELECTED BIBLIOGRAPHY

SOURCES

Acta Apostolicae Sedis, Commentarium officiale, Typis polyglottis Vaticanis, 1909–.

Acta Sanctae Sedis, Ex officina S.C. de Propaganda fide, 1865–1908, 41 vols.

APOSTOLIC TRIBUNAL OF THE ROMAN ROTA, *coram* BOCCAFOLA, 12 March 1998, in *Studia canonica*, 34 (2000), 518–528.

———, *coram* FUNGHINI, 30 June 1988, in *SRR Dec.*, 80 (1988), 440–444 (*in iure*), English translation in L.G. WRENN (ed. and trans.), *Law Sections*, Washington, DC, CLSA, 1994, 88–93.

BENEDICT XIV, declaration *Matrimonii*, 4 November 1741, in P. GASPARRI, *Codicis iuris canonici fontes*, vol. 5, Rome, Typis polyglottis Vaticanis, 1930.

BENEDICT XVI, allocution to the Roman Rota, 26 January 2008, in *AAS*, 100 (2008), English translation in *Philippine Canonical Forum*, 10 (2008), 7–12.

———, allocution to Roman Rota, 22 January 2011, in *AAS*, 103 (2011), 108–111, English translation in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 165, 2011, 17–20.

———, Apostolic Letter *Motu Proprio* on Several Amendments to the Code of Canon Law *Omnium in mentem*, 26 October 2009, in *AAS*, 102 (2010), 8–10, Vatican English translation in S.A EUART, J.A. ALESANDRO, and P.B.R. HARTMANN (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2010, 35–48.

———, Encyclical Letter on Integral Human Development in Charity and Truth *Caritas in veritate*, 29 June 2009, in *AAS*, 101 (2009), 641–709, Vatican English version *Charity in truth*, San Francisco, Ignatius Press, 2009.

———, Post-Synodal Apostolic Exhortation on the Sacrament of Charity *Sacramentum caritatis*, 22 February 2007, in *AAS*, 99 (2007), 105–180, Vatican English version in *Sacramentum Caritatis*, Libreria editrice Vaticana, 2007.

CANADIAN CONFERENCE OF CATHOLIC BISHOPS, Mixed Marriage Legislation for Canada, in *Communiqués*, 2 (1971), 302–309.

———, *Rite of Confirmation: Ritual and Pastoral Notes*, Ottawa, CCCB, Canada, 1987.

Catechismus Ecclesiae catholicae, Libreria editrice Vaticana, 1997, English translation *Catechism of the Catholic Church*, Ottawa, Publications Service, CCCB, 1994.

- CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Decree no. 8: Norm Concerning the Arrangement of the Catechumenate, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992.
- , Decree no. 9: Catholic Religious Education in Schools, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992.
- , Decree no. 11: Preparation and Investigation before Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992.
- , Decree no. 12: Minimum Age for Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992.
- , Decree no. 13, Declarations and Promises in Case of Mixed Marriage, 15 August 1992, in *Particular Norms for Thailand*, Bangkok, CBCT, 1992.
- , *Decree of the Plenary Council of the Catholic Church in Thailand A.D. 2015: Christ's Disciples living the New Evangelization*, Bangkok, CBCT, 2017.
- , EPISCOPAL COMMISSION FOR PASTORAL FAMILY, The Marriage Statistic Record in 2017.
- , The New Instructions to the Catholic Church in Thailand on Celebrating a Marriage between a Catholic and a Non-Christian, 4 October 2019.
- , Pastoral Letter Explaining the Guidelines for Catholics about Their Participation in Liturgies of Other Religions, 3 April 1994.
- Charter of the Rights of the Family: Presentation of the Holy See to All Persons, Institutions and Authorities Concerned with the Mission of the Family in Today's World, 22 October 1983, in *The Pope Speaks*, 29 (1984), 78–86.
- Codex canonum Ecclesiarum orientalium, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione auctus*, Libreria editrice Vaticana, 1995, English translation *Code of Canons of the Eastern Churches: Latin-English Edition, New English Translation*, Washington, DC, CLSA, 2001.
- Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus*, Libreria editrice Vaticana, 1989, English translation *Code of Canon Law: Latin-English Edition, New English Translation*, prepared under the auspices of the CLSA, Washington, DC, CLSA, 1999.
- Codex iuris canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus*, Typis polyglottis Vaticanis, 1917, English translation E.N. PETERS (ed.), *The 1917 Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001.

CONGREGATION FOR THE DOCTRINE OF THE FAITH, Divorced and Remarried Persons: Catechumenate and Sacraments, 11 July 1983, in *CLD*, vol. 10, 139–140.

———, Instruction on Mixed Marriages *Matrimonii sacramentum*, 16 March 1966, in *AAS*, 58 (1966), 235–239, English translation in *FLANNERY*1, 474–478.

———, Instruction on the Dissolution of Marriage in Favor of the Faith *Ut notum est*, 6 December 1973, in *LE*, vol. 5, no. 4244, col. 6701–6705, English translation in *CLD*, vol. 8, 1177–1184 and in *J*, 34 (1974), 418–423.

———, Multiple Marriage Cases Involving Pauline Privilege and Ligamen, in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2005, 23–26.

———, *Normæ de conficiendo processu pro solutione vinculi matrimonialis in favorem fidei* Potestas Ecclesiæ, 30 April 2001, E civitate Vaticana, 2001, English translation with a commentary in W. KOWAL and W.H. WOESTMAN, *Special Marriage Cases and Procedures: Ratified and Non-Consummated Marriage, Pauline Privilege, Favour of the Faith, Separation of Spouses, Validation, Presumed Death*, 4th rev. and updated ed., with appendices, Faculty of Canon Law, Saint Paul University, Ottawa, 2008, 92–128 and in Appendix I, 209–218 (Preface).

CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Circular Letter on the Instruction of a Cause for Dispensation of a *Ratum et Non Consummatum* Marriage, 13 June 2009, communicated to local ordinaries.

———, “Divorced Permanent Deacon Seeking Declaration of Nullity and Remarriage Refused Permission to Continue in Ministry” in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2003, 21–22.

———, Instruction on the Use of Vernacular Languages in the Publication of the Books of the Roman Liturgy *Liturgiam authenticam*, 28 March 2001, in *AAS*, 93 (2001), 685–726, English translation in *Origins*, 31 (2001), 17–32.

CONGREGATION FOR THE EVANGELIZATION OF PEOPLES, Letter to the President of the CBCT Granting the *recognitio* of the Decree of the First Plenary Council of Catholic Church in Thailand, 2 February 2017, in *Decree of the First Plenary Council of the Catholic Church in Thailand A.D. 2015: Christ’s Disciples Living the New Evangelization*, Bangkok, CBCT, 2017.

CONGREGATION OF THE Holy OFFICE, instruction *Matrimonii vinculo*, 1868, in *AAS*, 2 (1910), 199–203.

———, *Normæ pro conficiendo processu in casibus solutionis vinculi matrimonialis in favorem fidei per supremam Summi Pontificis auctoritatem*, 1 May, 1934, in *LE*, vol. 2, no. 1220, col. 3354–3355.

CONGREGATION OF THE Holy OFFICE, response, 6 March 1964, [Santa Rosa], in *LE*, vol. 3, col. 4479–4480.

CONGREGATION FOR THE SACRAMENTS, decree *Catholica doctrina* and *Regulæ Servandæ* in processibus super matrimonio rato et non consummato, 7 May 1923, in *AAS*, 15 (1923), 389–436, English translation in *CLD*, vol. 1, 764–792 (with an appendix of the principal forms used for such cases).

———, De processu super matrimonio rato et non consummato, 20 December 1986, in *Communicationes*, 20 (1988), 78–84, English translation in W. KOWAL and W.H. WOESTMAN, *Special Marriage Cases and Procedures: Ratified and Non-Consummated Marriage, Pauline Privilege, Favour of the Faith, Separation of Spouses, Validation, Presumed Death*, 4th rev. and updated ed., with appendices, Faculty of Canon Law, Saint Paul University, Ottawa, 2008, Appendix I, 199–207.

———, Instruction on the Certain Emendations Regarding the Norms to be Observed in the Process Concerning Sacramental, Non-Consummated Marriage *Dispensationis matrimonii*, 7 March 1972, in *AAS*, 64 (1972), 244–252, English translation in *CLD*, vol. 7, 988–997.

———, *Normæ observandæ* in processibus super matrimonio rato et non consummato ad præcavendam dolosam personarum substitutionem, 27 March 1929, in *AAS*, 21 (1929), 490–493, English translation in *CLD*, vol. 1, 792–796.

FRANCIS, allocution to the participants in the course on “super rato” cases at the Tribunal of the Roman Rota, 5 November 2014, in *Communicationes*, 46 (2014), 331–332.

———, allocution to the Roman Rota, 22 January 2016, in *AAS*, 108 (2016), 136–139, English translation in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 185, 2016, 5–7.

———, Apostolic Letter *Motu Proprio* by which the Canons of the Code of Canons of Eastern Churches Pertaining to Cases Regarding the Nullity of Marriage are Reformed *Mitis et misericors Iesus*, 15 August 2015, in *AAS*, 107 (2015), 946–957, Vatican English version in P.M. DUGAN, L. NAVARRO, and E. CAPARROS (eds.), *The Reform Enacted by the m.p. Mitis Iudex: Commentaries and Documentation*, Montreal, Wilson & Lafleur Ltée, 2016, 128–161.

———, Apostolic Letter *Motu Proprio* by which the Canons of the Code of Canons Law Pertaining to Case Regarding the Nullity of Marriage are Reformed *Mitis Iudex Dominus Iesus*, 15 August 2015, in *AAS*, 107 (2015), 958–970, Vatican English version in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 184 (2015), 4–17.

———, Post-Synodal Apostolic Exhortation on Love in Family *Amoris laetitia*, 19 March 2016, in *AAS*, 108 (2016), 311–446, English translation *Amoris laetitia*, Libreria editrice Vaticana, 2016.

The Jerusalem Bible, J. ALEXANDER (ed.), London, Doubleday and Company, 1966.

JOHN PAUL II, allocution to the Roman Rota, 26 January 1984, in AAS, 76 (1984), 643–649, English translation in W.H. WOESTMAN (ed.), *Papal Allocutions to the Roman Rota 1939–2011*, Ottawa, Faculty of Canon Law, Saint Paul University, 2011, 181–186.

———, allocution to the Roman Rota, 28 January 1991, in AAS, 83 (1991), 947–953, English translation in W.H. WOESTMAN (ed.), *Papal Allocutions to the Roman Rota 1939–2011*, Ottawa, Faculty of Canon Law, Saint Paul University, 2011, 214–218.

———, allocution to the Roman Rota, 21 January 2000, in AAS, 92 (2000), 350–355, in W.H. WOESTMAN (ed.), *Papal Allocutions to the Roman Rota 1939–2011*, Ottawa, Faculty of Canon Law, Saint Paul University, 2011, 254–259.

———, Apostolic Constitution for the Promulgation of the New Code of Canon Law *Sacrae disciplinae leges*, 25 January 1983, in AAS, 75 (1983), 7–14, English translation in *Code of Canon Law: Latin-English Edition Translation*, prepared under the auspices of CLSA, Washington, DC, CLSA, 1999, 27–32.

———, Apostolic Exhortation on the Role of the Christian Family in the Modern World *Familiaris consortio*, 22 November 1981, in AAS, 74 (1982), 81–191, English translation in *FLANNERY2*, 815–898.

———, Apostolic Letter *Motu Proprio* on Archbishop Lefebvre and His Followers *Ecclesia Dei*, 2 July 1988, in AAS, 80 (1988), 1495–1498, English translation in *Origins*, 18 (1988–1989), 149–152.

———, Apostolic Letter on the Dignity and Vocation of Women of the Marian Year *Mulieris dignitatem*, 15 August 1988, in AAS, 80 (1988), 1653–1729, English translation in *The Pope Speaks*, 34 (1989), 10–47.

———, Encyclical Letter on the Value and Inviolability of Human Life *Evangelium vitae*, 25 March 1995, in AAS, 87 (1995), 401–522, English translation *Evangelium vitae*, Libreria editrice Vaticana, 1995.

———, Post-Synodal Apostolic Exhortation on Jesus Christ the Saviour and His Mission of Love and Service in Asia *Ecclesia in Asia*, 6 November 1999, in AAS, 92 (2000), 482–487, English translation in *Origins*, 29 (1999), 357–384.

KRIENGSAK KOVITHAVANIJ, F.X. [cardinal], PRESIDENT OF THE CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Letter to the Prefect of the Congregation for the Evangelization of Peoples: Request for Approval of the Decree of the First Plenary Council of the Church in Thailand "Christ's Disciples Living the New Evangelization," 25 January 2016.

KRIENGSAK KOVITHAVANIJ, F.X. [cardinal], PRESIDENT OF THE CATHOLIC BISHOPS' CONFERENCE OF THAILAND, Promulgation of Decree of the First Plenary Council of the Catholic Church in Thailand, A.D. 2015, 16 April 2017, in *Decree of the First Plenary Council of the Catholic Church in Thailand A.D. 2015*.

LEO XIII, Encyclical Letter on Christian Marriage *Arcanum Divinae Sapientiae*, 10 February 1880, in AAS, 12 (1894), 385–402, English translation *Christian Marriage Encyclical Letter of Pope Leo XIII Arcanum Divinae Sapientiae: With Discussion Club Outline* by Rev. Gerald C. Treacy, S.J., New York, Paulist Press, 1942.

LITURGICAL COMMISSION OF THAILAND, *Matrimony and the Order of Mass for a Couple*, Bangkok, CBCT, 1992.

PAUL VI, Apostolic Letter Motu Proprio on Mixed Marriages *Matrimonia mixta*, 31 March 1970, in AAS, 62 (1970), 257–263, English translation in *FLANNERY1*, 508–514.

———, Apostolic Letter Motu Proprio on the Powers and Privileges Granted to Bishops *Pastorale munus*, 30 November 1963, in AAS, 56 (1964), 5–12, English translation in *CLD*, vol. 6, 370–378.

———, Encyclical Letter on the Regulation of Birth *Humanae vitae*, 25 July 1968, in AAS, 60 (1968), 481–503, English translation in *FLANNERY2*, 711–761.

PIUS XI, Encyclical Letter on Christian Marriage *Casti connubii*, 31 December 1930, in AAS, 22 (1930), 539–592, amended in AAS, 22 (1930), 604, English translation in C. CARLEN (ed.), *The Papal Encyclicals 1903–1939*, Wilmington, NC, McGrath Publishing Co., 1981, 391–414.

PIUS XII, allocution to the Roman Rota, 3 October 1941, no. 3, in AAS, 33 (1941), 424–425, in English translation in W.H. WOESTMAN (ed.), *Papal Allocutions to the Roman Rota 1939–2002*, Ottawa, Faculty of Canon Law, Saint Paul University, 2002, 11–16.

PONTIFICAL COUNCIL FOR THE FAMILY, *Matrimony and the New Evangelization: Preparation for the Sacrament of Marriage*, 13 May 1996, in *Catholic International*, 7 (1966), 374–388.

PONTIFICAL COUNCIL FOR LEGISLATIVE TEXTS, Circular Letter on the *actus formalis defectionis ab Ecclesia Catholica*, 16 December 2006, in S.A. EUART and S.M. VERBEEK (eds.), *Roman Replies and CLSA Advisory Opinions*, 2009, 32–34.

———, Circular Letter on Formal Act of Defection from the Catholic Church, 13 March 2006, in F.S. PEDONE and P.D. COUNCE (eds.), *Roman Replies and CLSA Advisory Opinions*, 2006, 31–33.

PONTIFICAL COUNCIL FOR LEGISLATIVE TEXTS, Circular Letter on Formal Act of Defection from the Catholic Church, 24 November 2006, in J.J. KOURY, R. MCDERMOTT and S.M. VERBEEK (eds.), *Roman Replies and CLSA Advisory Opinions*, 2008, 13–15.

———, *Dignitas connubii: Instruction to Be Observed by Diocesan and Interdiocesan Tribunals in Handling Causes of the Nullity of Marriage*, 25 January 2005, Libreria editrice Vaticana, 2005.

PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY, Directory for the Application of the Principles and Norms on Ecumenism, 25 March 1993, in AAS, 85 (1993), 1039–1119, Vatican English version *Directory for the Application of the Principles and Norms on Ecumenism*, Boston, St. Paul Books and Media, 1993.

ROCHE, A. [the secretary of the Congregation for Divine Worship and the Discipline of the Sacraments], Letter to the President of the CBCT Requesting Information on the “Order of Celebrating Matrimony between a Catholic and a Catechumen or a Non-Christian,” 17 July 2018.

SECOND VATICAN COUNCIL, Decree on the Church’s Missionary Activity *Ad gentes*, 7 December 1965, in AAS, 58 (1966), 946–990, English translation in *FLANNERY1*, 813–856.

———, Decree on Ecumenism *Unitatis redintegratio*, 21 November 1964, in AAS, 57 (1965), 90–112, English translation in *FLANNERY1*, 408–424.

———, Declaration on Religious Liberty *Dignitatis humanae*, 7 December 1965, in AAS, 58 (1966), 929–946, English translation in *FLANNERY1*, 799–812.

———, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964, in AAS, 57 (1965), 5–75, English translation in *FLANNERY1*, 350–426.

———, Pastoral Constitution on the Church in the Modern World *Gaudium et spes*, 7 December 1965, in AAS, 58 (1966), 1025–1115, English translation in *FLANNERY1*, 903–1001.

SUPREME SACRED CONGREGATION FOR THE HOLY OFFICE, The answer to the Apostolic Delegate of Japan regarding the *cautiones* required for marriages between Catholics and non-Catholic parties, in 1938, in T.L. BOUSCAREN, “Mixed Marriages in Japan: Reply and Explanation of Principle Regarding Promises (Holy Office, 21 April 1938) Private,” in *CLD*, vol. 2, 281.

SUPREME TRIBUNAL OF THE APOSTOLIC SIGNATURA, decree, 23 November 2005, prot. no. 34622/03 CG, in *Periodica*, 96 (2007), 285–288.

- SUPREME TRIBUNAL OF THE APOSTOLIC SIGNATURA, Decretum de recta applicatione canonum 1150 et 1608, §4, 23 January 1996, in *Periodica*, 85 (1996), 357–360 Latin text with English translation in K.W. VANN and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 1996, 39–45.
- , Letter on Defective Convalidation, 19 December 2007, prot. no. 1034/07 SAT, 185/07 ES.
- , Norms on the Preparation of the Process for the Dissolution of the Marriage Bond in Favour of the Faith, in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2004, 47–72.
- , Requests for Further Instruction, in K.W. VANN and L. JARRELL (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 1991, 30–31.
- , response, in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 1998, 13–15.
- TRIBUNAL OF THE ROMAN ROTA, decision *coram* SABATTANI, 20 December 1963, in *RRT Dec.*, 559 (1963), 973, English translation in *Studia canonica*, 29 (1995), 257.
- UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, Complementary Legislation to the Code of Canon Law, in *J*, 73 (2013), 271–297.
- , *The Order of Celebrating Matrimony*, Collegeville, MN, Liturgical Press, 2016.
- , *United States Catholic Catechism for Adults*, Washington, DC, USCCB, 2006.
- VALSECCHI, A., Letter to the Congregation for Divine Worship and the Discipline of the Sacraments Requesting Clarification of Liturgical Law Concerning the Celebration of a Marriage within the Mass when One of the Couple is not Baptized, 25 May 2018.

BOOKS

CATHOLIC SECTION:

ABATE, A.M., *The Dissolution of the Matrimonial Bond in Ecclesiastical Jurisprudence*, transl. by N. HYNES and G. ROBINSON, Rome, Desclée, 1962.

———, *Lo scioglimento del vincolo coniugale nella giurisprudenza ecclesiastica*, 4th ed., Naples, D'Auria, 1972.

———, *Il matrimonio nell'attuale legislazione canonica*, 2nd ed., Brescia, Paideia, 1982.

ALBERIGO, J. et al. (eds.), *Conciliarum œcumenicorum decreta*, Freiburg im Breisgau, Herder, 1962.

AMBORSKI, K.M., *The Development of the Process for the Dissolution of the Matrimonial Bond in Favour of the Faith*, Rome, Pontificia Università Lateranense, 2004.

AMENTA, P., *Administrative Procedures in Canonical Marriage Cases: History, Legislation and Praxis*, transl. by M. FRANCIS and C. HANCOCK, Collection Gratianus, Montreal, Wilson & Lafleur Ltée, 2011.

ARCHDIOCESE OF BANGKOK, *Instruction for Catholic Family*, Bangkok, Archdiocese of Bangkok, 2010, vols. 1–5.

ATITYA, J., *The Marriage of Catholic and Buddhist: Its Celebration and Dissolution in the Pastoral Circumstances of Thailand*, STD thesis, Rome, Academia Alfonsiana, 1989.

AYRINHAC, H.A., *Marriage Legislation in the New Code of Canon Law*, New York, Benzinger Brothers, Inc., 1939.

BEAL, J.P., J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000.

BERSINI, F., *Il nuovo diritto canonico matrimoniale: commento giuridico-teologico-pastorale*, 2nd ed., [Turino], Leumann, Elle di Ci, 1983.

BLACK, C.S., *An Ecumenical Study of the Pastoral Care of Mixed Marriages in the Light of "Matrimonia mixta,"* JCD thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 1979.

BOGDAN, L.A., *Renewal of Consent in the Simple Validation of Marriage: An Inquiry into the Juridical Implications and the Pastoral Dimensions in the United States of America*, JCD thesis, Rome, Pontificia Università Lateranense, 1979.

BOUDON, J., *Mémento canonique et pratique pour l'usage du privilège paulin*, Paris, 1949.

- BRANDON, S.G.F. (gen. ed.), *A Dictionary of Comparative Religion*, London, Weidenfeld & Nicolson, 1971.
- BRENNAN, J.H., *The Simple Convalidation of Marriage: An Historical Synopsis and Commentary*, Canon Law Studies, no. 102, Washington, DC, Catholic University of America, 1937.
- BUCKELEY, T.J., *What Binds Marriage? Roman Catholic Theology in Practice*, London, Geoffrey Chapman, 1997.
- BURKE, C., *Theology of Marriage: Personalism, Doctrine and Canon Law*, Washington, DC, Catholic University of America Press, 2015.
- CANNY, M.A., *An Encyclopedia of Religions*, London, George Routledge & Sons, 1921.
- Canon Law Digest*, vols. 1–6, Milwaukee, WI and New York, Bruce Pub. Co., 1934–1969; vols. 7–10, Chicago, Canon Law Digest, 1975–1986; vols. 11–, Washington, DC, CLSA, 1991–.
- CAPARROS, E. et al. (eds.), *Code of Canon Law Annotated*, 2nd rev. ed., Montréal, Wilson & Lafleur Ltée, 2004.
- CAPPELLO, F.M., *De sacramentis*, 5th ed., vol. 5, *De matrimonio*, Turin, Marietti, 1947.
- CASORIA, J., *De processu canonico “præsumptæ mortis”: Ecclesiæ doctrina et praxis ad probandum obitum alterutrius coniugis pro novis nuptiis rite ineundis*, Rome, Catholic Book Agency, 1965.
- CATECHETICAL CENTER OF BANGKOK, *The Role of the Priests in Catechesis*, Bangkok, Catechetical Center of Bangkok, 2006.
- CATHOLIC COMMISSION FOR CATECHETICAL EDUCATION (THAILAND), *Thai Directory for Catechesis*, Bangkok, Catholic Commission for Catechetical Education (Thailand), 2014.
- CATHOLIC MISSION FOR CHRISTIAN LAITY, DESK FOR THE FAMILY, *Guidelines for Marriage Preparation (Immediate)*, Bangkok, CBCT, 2014.
- , *Guidelines for Marriage Preparation (Immediate)*, Bangkok, CBCT, 2019.
- , *Guidelines for Marriage Preparation (Remote and Proximate)*, Bangkok, CBCT, 2014.
- , *Guidelines for Those Who Are Married (Continued Pastoral Care after Marriage)*, Bangkok, CBCT, 2014.
- , *Khrob Khrua Nan Sum Khun Lum [Family is the Most Precious Thing]*, Bangkok, CBCT, 2018.

- CHATHAM, J.G. and W.L. BOUDREAUX, *Marriage Case Manual: A Formulary, with Summaries of Substantive Law, the Law on Procedures and Policies*, 3rd rev. ed., New Orleans, 1965.
- COBUILD, C., *Advanced Learner's English Dictionary*, 5th ed., Great Britain, HarperCollins Publishers, 2006.
- Communicationes*, Rome, PONTIFICAL COMMISSION FOR THE REVISION OF THE CODE OF CANON LAW (PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO), 1969–1983, vols. 1–15; PONTIFICAL COMMISSION FOR THE AUTHENTIC INTERPRETATION OF THE CODE OF CANON LAW (PONTIFICIA COMMISSIO CODICI IURIS CANONICI AUTHENTICE INTERPRETANDO), 1984–1988, vols. 16–20; PONTIFICAL COUNCIL FOR THE INTERPRETATION OF LEGISLATIVE TEXTS (PONTIFICIUM CONSILIUM DE LEGUM TEXTIBUS INTERPRETANDIS), 1989–, vol. 21–.
- CONNER, P.M., *Married in Friendship: Familiaris consortio – Digest and Commentary, Friendship – Key to Marital Spirituality*, London, Sheed and Ward, 1987.
- CONNOLLY, P.J., *The Nature of Marriage As Proposed in the Codex iuris canonici and in the Codex canonum Ecclesiarum orientalium*, JCD thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 1993.
- CORBETT, P., *The Roman Law of Marriage*, Oxford, Clarendon Press, 1930.
- CORIDEN, J., T. GREEN, and D. HEINTSCHEL (eds.), *The Code of Canon: A Text and Commentary*, New York/Mahwah, NJ, Paulist Press, 1985.
- CURRAN, C.E. and J.H. RUBIO (eds.), *Marriage*, Reading in Moral Theology, no. 15, New York, Paulist Press, 2009.
- D'MELLO, J., *The Dual Religious Marriage Celebration in India*, JCD thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 1985.
- DOHENY, W.J., *Canonical Procedure in Matrimonial Cases*, vol. 2, *Informal Procedure*, Milwaukee, WI, The Bruce Publishing Company, 1944.
- DOYLE, T. (ed.), *Marriages Studies: Reflection in Canon Law and Theology*, vol. 1, Toledo, OH, CLSA, 1980.
- ERLEBACH, G. (ed.), *Le allocuzioni dei Sommi Pontefici alla Rota Romana 1939–2003*, Citta del Vaticano, Libreria editrice Vaticana, 2004.
- FELLHAUER, D.E., *The Consortium omnis vitae as a Juridical Element of Marriage*, JCD thesis, in *Studia canonica*, vol. 13, no. 1, Ottawa, Faculty of Canon Law, Saint Paul University, 1979.
- FLANNERY, A. (gen. ed.), *Vatican Council II: The Conciliar and Post-Conciliar Documents*, vol. 1, new rev. ed., Northport, NY, Costello Publishing Co., 1998.

- FLANNERY, A. (gen. ed.), *Vatican Council II: More Post Conciliar Documents*, vol. 2, new rev. ed., Northport, NY, Costello Publishing Co., 1998.
- FLORENCIO, O.J., *The Anthropological and Sacramental Foundations of the Indissolubility of Marriage in the 20th Century Catholic Theology*, STD thesis, Rome, Pontificia Universitas Sanctae Crucis, 2000.
- GALLAGHER, J.F., *The Matrimonial Impediment of Public Propriety: A Historical Synopsis and a Canonical Commentary*, JCD thesis, in *Canon Law Studies*, no. 304, Washington, DC, Catholic University of America, 1952.
- GARCÍA HERVÁS, D., *La disolución del matrimonio in favorem fidei: Elementos para la investigación*, Salamanca, Universidad Pontificia de Salamanca, 2008.
- GARNER, B.A. (ed.), *Black's Law Dictionary*, 7th ed., MN, St. Paul, 1999.
- GASPARRI, P. (ed.), *Codicis iuris canonici fontes*, Typis polyglottis Vaticanis, 1923–1939, 9 vols. (vols. 7–9 ed. by I. SERÉDI).
- , *Tractatus canonicus de matrimonio*, Typis polyglottis Vaticanis, 1932, 2 vols.
- GAUTHIER, A., *Roman Law and Its Contribution to the Development of Canon Law*, Ottawa, Faculty of Canon Law, Saint Paul University, 1996.
- GORDON, I., *De processu super rato*, Rome, Pontificia Universitas Gregoriana, 1971.
- GRECO, J., *Le pouvoir du Souverain Pontife à l'égard des infidèles: Le Privilège "Petrinum" peut-il être étendu au mariage de non baptisés, spécialement à celui des catéchumènes? Jalons historiques: faits et doctrines*, Rome, L'Université Gregorienne, 1967.
- GREGORY, D.J., *The Pauline Privilege: An Historical Synopsis and Commentary*, *Canon Law Studies*, no. 68, Washington, DC, Catholic University of America, 1931.
- HARRIGAN, R.J., *The Radical Sanation of Invalid Marriages: An Historical Synopsis and Commentary*, *Canon Law Studies*, no. 116, Washington, DC, Catholic University of America, 1938.
- HIMES, K.R. et al. (eds.), *Modern Catholic Social Teaching: Commentaries and Interpretations*, Washington, DC, Georgetown University Press, 2005.
- HUDSON, J.W., *Handbook for Marriage Nullity Cases*, 2nd ed., Ottawa, Faculty of Canon Law, Saint Paul University, 1980.
- HUELS, J.M., *The Catechumenate and the Law: A Pastoral and Canonical Commentary for the Church in the United States*, Chicago, IL, Liturgical Training Publications, 1994.

- HUELS, J.M., *The Pastoral Companion: A Canon Law Handbook for Catholic Ministry*, 5th ed., Montreal, Wilson & Lafleur Ltée, 2016.
- John Paul II, *The Theology of the Body: Human Love in the Divine Plan*, Boston, MA, Pauline Books & Media, 1997.
- JOYCE, G.H., *Christian Marriage: An Historical and Doctrinal Study*, 2nd ed., London, 1948.
- JUROD, S. and W. KRITCHAREON (trans. and eds.), *Tad Sin Jai Rak [A Decision to Love]*, Ratchaburi, Catechetical Center of Ratchaburi Diocese, 2004.
- KAMAS, J., *The Separation of the Spouses with the Bond Remaining: Historical and Canonical Study with Pastoral Applications*, Rome, Editrice Pontificia Università Gregoriana, 1997.
- KASPER, W., *Theology of Marriage*, New York, Crossroad, 1977.
- KAPUR-FIC, A.R., *Thailand: Buddhism, Society and Women*, New Delhi, Abhinav Publications, 1998.
- KOWAL, W. and W.H. WOESTMAN, *Special Marriage Cases and Procedure of Marriage: A study in Lawmaking and the Uses of Law, Pauline Privilege, Favour of the Faith, Separation of Spouses, Validation, Presumed Death*, 4th ed. rev., Ottawa, Faculty of Canon Law, Saint Paul University, 2008.
- KUMAR, K.P., *A Juridical and Pastoral Analysis of the Canonical Impediment of Disparity of Cult according to 1983 Code, can. 1086*, JCD thesis, Rome, Pontificia Universitas Urbaniana, 2004.
- LAWLER, M.G., *Marriage and the Catholic Church: Disputed Questions*, Collegeville, MN, The Liturgical Press, 2002.
- LÉRY, L.C. DE, *Le privilège de la foi*, Montreal, Collegium Maximum Immaculatæ Conceptionis, 1938.
- MACKIN, T., *Marriage in the Catholic Church*, vol. 1, *What is Marriage?* New York, Paulist Press, 1982, vol. 2, *Divorce & Remarriage*, New York, Paulist Press, 1984.
- MANIRAT, J.P., *Pastoral and Juridical Preparation for Marriage between Catholic and Buddhist*, JCD thesis, Rome, Pontificia Universitas Urbaniana, 1988.
- MARCHETTA, B., *Scioglimento del matrimonio canonico per inconsumazione e clausole proibitive di nuove nozze [Dottrina-Procedura-Giurisprudenza]*, Padova, CEDAM-Casa Editrice dott. Antonio Milani, 1981.

- MARZOA, Á, J. MIRAS, and R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montreal, Wilson & Lafleur Ltée, 2004.
- MCAREAVEY, J., *The Canon Law of Marriage and the Family*, Dublin, Four Courts Press, 1997.
- MENDONÇA, J., *The Impediment of Disparity of Cult between Catholics and Hindus: In the Diocese of Mangalore, India*, JCD thesis, Rome, Pontificia Universitas Urbaniana, 1995.
- MILLER, J.M. (ed.), *The Post-Synodal Apostolic Exhortations on John Paul II*, Huntington, IN, Our Sunday Visitor Publishing Division, 1998.
- NICHOLAS, B., *An Introduction to Roman Law*, Oxford University Press, Oxford, 1979.
- NOONAN, J.T. JR., *Power to Dissolve: Lawyers and Marriages in the Courts of the Roman Curia*, Cambridge, MA, Belknap Press of Harvard University Press, 1972.
- NOWAKOWSKI, B., *Rozwiązanie małżeństwa in favorem fidei: źródła, ewolucja, aktualne normy*, Poznań, Prymasowskie Wydawnictwo Gaudentinum, 2013.
- ORLANDI, G., *I "casi difficili" nel processo super rato*, Padua, Casa Editrice Dott. Antonio Milani, 1984.
- ÖRSY, L., *The Complex Question of Mixed Marriages*, London, Burns and Oates, 1963.
- , *Marriage in Canon Law: Texts and Comments, Reflections and Questions*, Wilmington, DE, Michael Glazier, Inc., 1986.
- PAGÉ, R., *The Diocesan Pastoral Council*, transl. by B.A. PRINCE, Paramus, NJ, Newman Press, 1970.
- PAPALI, V.P.L., *Preparation a Necessary Requisite for Marriage*, JCD thesis, Bangalore, St. Peter's Pontifical Institute of Theology, 1992.
- PARMA, M., *El favor fidei en el Decretum Gratiani*, Dissertationes, Series canonica, no. 25, Rome, EDUSC, 2009.
- PAYYAPPILLY, S., *Mixed-Marriage in the Code of Canons of the Eastern Churches and the Particular Law of the Syro-Malabar Church*, JCD thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 2008.
- PRIHARTANA, A., *Ministry of the Education of Faith in the Families of Disparity of Cult Marriages*, JCD thesis, Rome, Pontificia Universitas Lateranensis, 2005.
- PROVOST, J.H. and K. WALF (eds.), *Studies in Canon Law*, presented by P.J.M. HUIZING, Belgium, Leuven University Press, 1991.

- PŁAT, Z., *Rilevanza giuridica delle interpellazioni e delle cauzioni nello scioglimento del matrimonio*, Rome, Editrice Pontificia Università Gregoriana, 2007.
- PUZA, R., *Katholiches Kirchenrecht*, Heidelberg, C.F. Müller, 1986.
- REGATILLO, E.F., *Ius sacramentarium*, vol. 2, Santander, Sal Terræ, 1946.
- THE RELIGIOUS AND CULTURAL RESEARCH CENTER, SAENGTHAM COLLEGE, *The Research on the Disparity of Cult Marriage*, Nakornpathom, Saengtham College Press, 2001.
- SABBARESE, L. and E. FRANK, *Il matrimonio canonico nell'ordine della natura e della grazia: Commento al Codice di diritto canonico, libro IV, parte IV, parte I, titolo VII*, Rome, Urbaniana University Press, 2006.
- , *Scioglimento in favorem fidei del matrimonio non sacramentale: norme e procedura*, Rome, Urbaniana University Press, 2010.
- SAJE, A., *La forma straordinaria e il ministro della celebrazione del matrimonio secondo il Codice latino e orientale*, Rome, Editrice Pontificia Università Gregoriana, 2003.
- SCHENK, F.J., *The Matrimonial Impediments of Mixed Religion and Disparity of Cult*, Canon Law Studies, no. 51, Washington, DC, The Catholic University of America, 1929.
- SCICLUNA, C.J., *The Essential Definition of Marriage according to the 1917 and 1983 Codes of Canon Law: An Exegetical and Comparative Study*, Lanham, MD, University Press of America, 1995.
- SHEEHY, G. et al. (eds.), *The Canon Law – Letter & Spirit: A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995.
- SIEGLE, B.A., *Marriage according to the New Code of Canon Law*, New York, Alba-House, 1986.
- SWENGROS, W.J., *Simple Convalidation according to the 1983 Code of Canon Law*, Rome, Pontificia Studiorum Universitas a S. Thoma Aq. in Urbe, 2001.
- TANNER, N.P., *Decrees of the Ecumenical Councils*, Washington, DC, Georgetown University Press, 1990, 2 vols.
- VLIET, A.H. VAN, *Marriage and Canon Law: A Concise and Complete Account*, London, Burn & Oates, 1964.
- VORGRIMLER, H., *Sacramental Theology*, Collegeville, MN, The Liturgical Press, 1992.

- WAHL, F.X., *The Matrimonial Impediments of Consanguinity and Affinity: A Historical Synopsis and Commentary*, JCD thesis, in *Canon Law Studies*, no. 90, Washington, DC, Catholic University of America, 1934.
- WALSH, P.G. (ed. and trans.), *Augustine: De bona coniugali, de sancta virginitate*, Oxford, Clarendon Press, 2001.
- WINSLOW, F.J., *The Pauline Privilege and the Constitution of Canon 1125*, New York, Field Afar Press, 1948.
- WOEBER, E.M., *The Interpellations*, Canon Law Studies, no. 172, Washington, DC, Catholic University of America, 1942.
- WOESTMAN, W.H. (ed.), *Papal Allocutions to the Roman Rota 1939–2011*, Ottawa, Faculty of Canon Law, Saint Paul University, 2011.
- WRENN, L.G., *Annulments*, Washington, DC, CLSA, 1987.
- , *The Invalid Marriage*, Washington, DC, CLSA, 1998.
- , *Judging Invalidity*, Washington, DC, CLSA, 2002.
- , *Procedures*, Washington, DC, CLSA, 1987.
- (ed. and trans.), *Law Sections*, Washington, DC, CLSA, 1994.
- ZANIKIRE TUMUSIIME, S., *The Church's Response to Childless Couples: Canonical and Pastoral Considerations on Sterility in the Ugandan Context (C. 1084, §3)*, JCD thesis, Ottawa, Saint Paul University.
- ZAPP, H., *Kanonisches Eherecht*, Freiburg im Breisgau, Rombach, 1983.

BUDDHIST SECTION

- ABBA, B., *Buddhism*, Bangkok, Department of Corrections Press, 1981.
- BARDWELL, L.S., *Religion and Legitimation of Power in Thailand, Laos and Burma*, Chambersburg, Anima Book Press, 1978.
- DAVIDS, T.W.R. (ed.), *Sacred Books of the Buddhists*, vol. 3, London, Oxford University Press, 1910.
- DAVIDS, T.W.R. (ed.), *Sacred Books of the Buddhists*, vol. 4, London, Oxford University Press, 1921.
- DHAMMANANDA, K.S., *A Happy Married Life: A Buddhist Perspective*, Singapore, KEPMEDIA International Pte Ltd, 2007.

- FAUSBÖLL, V. (trans.), *The Sacred Books of the East: The Sutta-Nipata*, Delhi, Motilal Banarsidass, 1965.
- GARD, R.A. (ed.), *Buddhism*, London, Prentice-Hall International, 1961.
- GURUGÉ, A.W.P., *Buddhism: The Religion and Its Culture*, Madras, Tax & Company Law Press, 1975.
- KAPUR-FIC, A.R., *Thailand: Buddhism, Society and Women*, New Delhi, Abhinav Publication, 1998.
- KEOWN, D., *A Dictionary of Buddhism*, New York, Oxford University Press, 2003.
- KEOWN, D. and C.S. PREBISH (eds.), *Encyclopedia of Buddhism*, London and New York, Routledge, 2007.
- KISLENKO, A., *Culture and Customs of Thailand*, London, Greenwood Press, 2004.
- HARRIS, E.J., *What Buddhists Believe*, Oxford, One World Publications, 1998.
- HARE, E.M., *The Book of the Gradual Sayings (Angullara-Nikaya) or More-Numbers Suttas*, vols. 1–4, London, Luzac & Company Ltd., 1965, 1970–1973.
- HARVEY, P., *An Introduction to Buddhist Ethics: Foundations, Values, and Issues*, Cambridge, Cambridge University Press, 2000.
- HORNER, I.B., *The Collection of The Middle Length Sayings (Majjhima-Nikaya)*, vols. 1–3, London, The Pali Text Society, 1967, 1975–1976.
- , *Women under Primitive Buddhism*, Amsterdam, Phil Press, 1975.
- HUMPHREYS, C., *A Popular Dictionary of Buddhism*, London, Archo Publications, 1962.
- JUMSAI, M., *Understanding Thai Buddhism*, Bangkok, Chalermmit Press, 1980.
- LESTER, R.C., *Theravada Buddhism in Southeast Asia*, MI, The University of Michigan Press, 1973.
- MCDANIEL, J.T., *The Lovelorn Ghost & The Magic Monk: Practicing Buddhism in Modern Thailand*, New York, Columbia University Press, 2011.
- MASUTANI, F., *A Comparative Study of Buddhism and Christianity*, Tokyo, Kenkyusha Printing Co., 1967.
- MISHRA, P.P., *The History of Thailand*, Greenwood, CA, imprint of ABC-CLIO, LLC, 2010.
- MÜLLER, F.M. (trans.), *The Sacred Books of the East: The Dhammapada*, Delhi, Motilal Banarsidass, 1965.

- MUTHAKARN, P., *Buddhism*, Bangkok, Changvittaya Press, 1957.
- , *Buddhism Part II*, Bangkok, Pitnakorn Press, 1964.
- PARRINDER, G., *Sex in the World's Religions*, New York, Oxford University Press, 1980.
- PAPUSSARO, A., *An Application of Buddhist Ethical in Married Life of Thai Buddhist Women Being Married to the Non-Thai in Thunkhaolung District, Roiet Province*, Bangkok, Mahachulalongkornrajavidyalaya University, 2012.
- PHAICHT, C., *Thai Ceremony*, Bangkok, Wattanapanith, 1950.
- PREBISH, C.S., *Historical Dictionary of Buddhism*, Metuchen, NJ, London, The Scarecrow Press, 1993.
- PRICKETT, J. (ed.), *Living Faiths: Marriage and the Family*, Cambridge, Lutterworth Press, 1985.
- THE PUBLIC RELATION DEPARTMENT, *Buddhism in Thai Life*, Bangkok, The Publication of Foreign Language Documents of the National Identity Board, 1981.
- RAJAVARUMUNI, P., *Thai Buddhism in the Buddhist World*, Bangkok, Unity Progress Press, 1985.
- , *Buddhism*, Bangkok, O.S. Printing House, 1982.
- RAHULA, W.S., *What the Buddha Taught*, rev. ed., New York, Grove Press, 1974.
- RENARD, J., *Responses to 101 Questions on Buddhism*, New York, Paulist Press, 1999.
- SADDTISSA, H., *The Buddhist Way*, London, G. Allen & Unwin, 1971.
- SANDHIKSHETRIN, K. (comp. and trans.), *The Civil and Commercial Code: Book I–VI and Glossary: Thai–English Edition*, Bangkok, Nitibannakan, 2008.
- SEGALLER, D., *Thai Ways*, Bangkok, Thai Wattana Panich, 1979.
- SMITH, B.L. (ed.), *Religion and Legitimation of Power in Thailand, Laos, and Burma*, Chambersburg, PA, South and Southeast Asia Studies, 1978.
- SPIRO, M., *Buddhism and Society*, Los Angeles, University of California Press, 1982.
- STACY, A., *Elements of Thai Civil Law*, Leiden, Koninklijke Brill NV, 2016
- STACY, A., *General Principle of Thai Private Law*, Singapore, Springer, 2016.
- STRAUSS, C.T., *The Buddha and his Doctrine*, New York, Kennikat Press, 1970.
- SUMITRA, L., *Theravada Buddhism of Thailand*, Bangkok, The Buddhist Association of Thailand, 1970.

- SUPHAB, S., *Society and Tradition: Value, Family, Religion and Custom*, Bangkok, Thaiwattanapanit, 1988.
- TAMBIAH, S.J., *Buddhism and the Spirit Cults in North–East Thailand*, Cambridge, MA, Cambridge University Press, 1970.
- TANKANSILH, P., *Hinnayana and Mahayana*, Bangkok, Preapittaya, 1964.
- THUNYANUPHAB, S., *Comparative Religion*, Bangkok, Bannakarn Press, 1961.
- TRANIOR, K. (ed.), *Buddhism*, London, Duncan Baird Publishers Ltd., 2004.
- WOODWARD, F.L. (trans.), *The Book of The Kindred Sayings (Sanyutta-Nikaya) or Grouped Suttas*, part 4, London, The Pali Text Society, 1972.

ARTICLES

CATHOLIC SECTION

- ABBASS, J., "Marriage in the Two Codes of Canon Law," in *Apollinaris*, 68 (1995), 521–565.
- AHLERS, R., "Überlegungen zum Ehehindernis der öffentlichen Ehrbarkeit," in *De processibus matrimonialibus*, 11 (2004), 13–22.
- ALESANDRO, J.A., "The Canon Law of Marriage: Ever Old, Ever New," in *CLSA Proceedings*, 72 (2010), 50–82.
- ALLEN, W.F., "The Insincerity of the *cautiones* – Disparity of Worship," in *J*, 16 (1956), 59–86.
- AMBROZIC, A.M., "Indissolubility of Marriage in the New Testament: Law of Ideal?" in *Studia canonica*, 6 (1972), 281–288.
- , "Procedural Norms of the Process for the Dissolution of the Matrimonial Bond in *favorem fidei*," in *Apollinaris*, 77 (2004), 835–858.
- ANASTASIUS AB UTRECHT, "De privilegio piano polygamis conversis dato (interpretatio canonis 1125)," in *Ius seraphicum*, 4 (1958), 127–142, 283–335, 426–473.
- ARIOKASARNY, S., "Challenges and Opportunities of Interreligious Dialogue in Interfaith Marriages: An Asian Perspective," in *INTAMS*, 13 (2007), 191–201.
- ARRIETA, J.I., "The Internal Forum: Notion and Juridical Regime," in *Studia canonica*, 41 (2007), 27–46.
- ASANBE, J., "Mixed Marriages in the Light of Ecumenism," in *Vidyajyoti*, 69 (2005), 523–534.
- AZNAR GIL, F.R., "Nuevas normas sobre la disolución del vínculo matrimonial no sacramental," in *Revista española de derecho canónico*, 60 (2003), 141–169.
- BALUMA, A., "An Act to Legalize Church Decisions of Nullity of Marriage for Civil Effects and Other Purposes," in *Philippine Canonical Forum*, 8 (2006), 205–230.
- BALUMA, H., "Legal Age to Marry," in *Boletín Eclesiástico de Filipinas*, 77 (2002), 471–473.
- BAÑARES, J.I., "Sugerencias en torno al consentimiento matrimonial naturalmente suficiente, su nulidad y su sanación en la raíz," in *Ius canonicum*, 55 (2015), 27–44.
- BARBER, J.D.G., "Anotaciones sobre la historia del impedimento de consanguinidad," in *Apollinaris*, 82 (2009), 647–677.

- BEAL, J.P., "Diriment Impediments in General (cc. 1073–1082)," in *CLSA Comm2*, 1272–1282.
- , "Diriment Impediments Specifically (cc. 1083–1094)," in *CLSA Comm2*, 1282–1296.
- , "The Form of the celebration of Marriage (cc. 1108–1123)," in *CLSA Comm2*, 1325–1341.
- , "Marriage (cc. 1055–1062)," in *CLSA Comm2*, 1234–1260.
- , "Matrimonial Consent (cc. 1095–1107)," in *CLSA Comm2*, 1296–1325.
- , "Mixed Marriage (cc. 1124–1129)," in *CLSA Comm2*, 1341–1351.
- , "The Ordinary Process according to *Mitis Iudex*: Challenges to Our "Comfort Zone," in *J*, 76 (2016), 159–196.
- BERNARD, J., "The New Matrimonial Law," in *Concilium*, 185 (1986), 45–53.
- BIANCHI, P., "Processi e procedimenti canonici per la separazione personale dei coniugi," in *Quaderni di diritto ecclesiale*, 13 (2000), 146–168.
- BOCCAFOLA, K.E., "Invalid Convalidation: A Legitimate Autonomous Ground of Marriage Nullity?" in *J*, 74 (2014), 193–213.
- BÖCKLE, F., "Mixed Marriages: A Roman Catholic View," in *Concilium*, vol. 4, 1 (1965), 60–63.
- BOGDAN, L.A., "Simple Convalidation of Marriage in the 1983 Code of Canon Law," in *J*, 46 (1986), 511–531.
- BOLCHI, E.L., "Lo scioglimento del matrimonio non sacramentale *in favorem fidei*," in *Quaderni di diritto ecclesiale*, 20 (2007), 299–319.
- BREINTENBECK, M., "The Requirement for Experts in Church Laws," in *J*, 50 (1990), 198–220.
- BRIDE, A., "L'actuelle extension du 'privilège de foi'," in *Année canonique*, 6 (1958), 53–81.
- , "Le pouvoir du Souverain Pontife sur le mariage des infidèles," in *Revue de droit canonique*, 10–11 (1960–1961), 52–101.
- BROWN, R., "Essential Incompatibility: Researches and the Present Situation," in *Studia canonica*, 14 (1980), 25–48.
- , "Inadequate Consent of Lack of Commitment: Authentic Grounds for Nullity," in *Studia canonica*, 9 (1975), 249–265.

- BROWN, R., "Non Inclusion: A Form of Simulation?" in *CLSA Proceedings*, 41 (1979), 1–11.
- , "Simulation versus Lack of Commitment," in *Studia canonica*, 14 (1980), 335–345.
- , "Total Simulation – A Second Look," in *Studia canonica*, 10 (1976), 235–249.
- BROWN, W., "The Eucharist and Mixed Marriage: Present Status," in *Studia canonica*, 38 (2004), 509–526.
- BUCK, T., "Gaudium et spes and Marriage: A Conjugal Covenant," in *Australian Catholic Record*, 89 (2012), 444–457.
- BUNGE, A.W., "Proceso sobre rato y no consumado: fase inicial diocesana," in *Anuario argentino de derecho canónico*, 20 (2014), 333–346.
- BURKE, R.L., "Canon 1095: Canonical Doctrine and Jurisprudence. Part 1: Canon 1095, 1° and 2°," in *CLSA Proceedings*, 47 (1986), 94–107.
- , "Il processo di dispensa dal matrimonio rato e non consumato: la grazia pontificia e la sua natura," in *I procedimenti speciali nel diritto canonico*, Studi giuridici, no. 27, Libreria editrice Vaticana, 1992, 139–144.
- CALLEJO DE PAZ, R., "Misericordia y fracaso matrimonial: algunas consideraciones de cara a un posible replanteamiento jurídico-pastoral," in *Estudios eclesiológicos*, 90 (2015), 765–787.
- CALVO, R.R., "The Impact of Culture in Marriage Cases," in *CLSA Proceedings*, 55 (1993), 108–120.
- CANON LAW SOCIETY OF AMERICA, "Roman Report – Appendix: Privilege of the Faith Cases," in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 63 (1984), 15–16.
- CIVISCA, L., *The Dissolution of the Marriage Bond*, Naples, D'Auria, 1965.
- CLAES, J., "Le dérogations à la loi de l'indissolubilité du mariage," in *Collectanea Mechlinensia*, 23 (1934), 609–620.
- COGAN, P.J., "Disparity of Cult Marriage between Two Baptized Persons," in K.W. VANN and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 1995, 88–90.
- CONNERY, J.R., "The Role of Love in Christian Marriage," in T.P. DOYLE (ed.), *Marriage Studies III: Reflections in Canon Law and Theology*, Washington, DC, CLSA, 1985, 187–205.

- CONNOLLY, T.J., "Mixed Marriages: A Sign of Division among Christians," in *Australasian Catholic Record*, 47 (1970), 265–277.
- CORIDEN, J.A., "The Marriage Bond and Ecclesiastical Reconciliation of the Divorced and Remarried," in *Studia canonica*, 38 (2004), 155–172.
- , "Rules for Interpreters," in *J*, 42 (1982), 277–303.
- CORTÉS DIÉGUEZ, A., "El matrimonio mixto en la Iglesia latina y en las Iglesias orientales católicas y orthodoxas," in *Revista española de derecho canónico*, 63 (2006), 655–722.
- COURTNEY, F.J., "The Plea of Invalid Convalidation in Defect of Form Cases," in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 52 (1982), 19–24.
- CUNEO, J.J., "Lack of Due Discretion: The Judge as Expert," in *J*, 42 (1982), 141–163.
- DALY, B., "Extension of Faculty Granted to Pastor, Parish Moderator, Parochial Administrator, or Other Parish Priest," in J.J. KOURY, R. MCDERMOTT and S.M. VERBEEK (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2008, 102–104.
- , "Sanation of Marriage by Vicar General," in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2003, 78–80.
- DANEELS, F., "A First Approach to the Reform of the Process for the Declaration of Nullity of Marriage," in *J*, 76 (2016), 115–136.
- DANIEL, W.L., "Validity of Dispensation from Canonical Form," in J.J. KOURY, R. MCDERMOTT and S.M. VERBEEK (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2008, 105–107.
- DEBUF, D., "Le privilège en faveur de la foi: que change l'instruction d'avril 2001 par rapport à celle de décembre 1973?" in *Revue de droit canonique*, 52 (2002), 428–442.
- DEEPA, "The Importance of the Pre-Nuptial Enquiry according to *CIC/83*, c. 1067 and *CCEO*, c. 784 in the Kerala Context," in *Iustitia*, 4 (2013), 121–142.
- DELOOZ, P., "Preparing for Marriage: A Sociological Approach," in *Lumen vitae*, 40 (1985), 393–403.
- DEVADASS, C., "The Pastoral Response to the Church to the Challenges of Inter-Faith Marriages," in *FABC Papers*, no. 118, July 2006.

- DIEGO LORA, C. DE, "Las causas de separación de cónyuges según el nuevo Código," in Z. GROCHOLEWSKI and V. CÁRCEL ORTÍ (eds.), *Dilexit iustitiam, studia in honorem Aurelii Card. Sabbatani*, Liberia editrice Vaticana, 1984, 389–403.
- DONNELLY, F., "The Helena Decision of 1924," in *J*, 34 (1976), 442–449.
- DOYLE, T.P., "Marriage (cc. 1055–1165)," in *CLSA Comm1*, 792–800.
- , "Matrimonial Consent (cc. 1095–1107)," in *CLSA Comm1*, 774–795.
- , "A New Look at the *bonum fidei*," in *Studia canonica*, 12 (1978), 5–40.
- , "Pastoral Care and What Must Precede Celebration of Marriage (cc. 1063–1072)," in *Comm1*, 747.
- , "The Separation of the Spouses (cc. 1141–1155)," in *CLSA Comm1*, 811–822.
- , "The Theology of Marriage: Where We Are Today," in *Studia canonica*, 19 (1985), 81–98.
- DUNDERDALE, E., "The Canonical Form of Marriage: Anachronism or Pastoral Necessity?" in *Studia canonica*, 12 (1978), 41–55.
- DZIERŻON, G., "Separacja stała podczas trwania węzła małżeńskiego," in *Ius matrimoniale*, 5 (2000), 151–168.
- EASTON, F.C., "Canonical Form of Marriage throughout the Centuries: Seeing Pope Benedict XVI's Motu Proprio *Omnium in mentem* in Context," in *CLSA Proceedings*, 72 (2010), 189–204.
- , "Favour of the Faith Cases and the 2001 Norms of the Congregation for the Doctrine of the Faith," in *CLSA Proceedings*, 64 (2002), 97–119.
- , "Sanation of Marriage after Dissolution of Marriage in Favour of the Faith," in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2005, 79–81.
- ESCRIVÁ IVARS, J., "Separación conyugal y mediación," in *Ius canonicum*, 41 (2001), 247–292.
- ERLEBACH, G., "Nuove competenze della Rota Romana in seguito al motu proprio *Quaerit semper*," in *Apollinaris*, 85 (2012), 587–602.
- FABC OFFICE OF THEOLOGICAL CONCERNS, "A Few Theological and Pastoral Perspectives of Inter-Faith Marriages," V. TIRIMANNA (ed.), in *FABC Papers*, no. 127 (February 2009).

- FAIR, B.F.L., *The Impediment of Abduction: A Historical Synopsis and Commentary*, Canon Law Studies, no. 194, Washington, DC, Catholic University of America, 1944.
- FAIR, J.D., "Inter-Ritual Matters in the Revised Code of Canon Law," in *Studia canonica*, 17 (1983), 239–259.
- FALCÃO, M., "Falta de fé e sacramentos (em particular, o matrimónio)," in *Forum canonicum*, 10 (2015), 29–89.
- FELICI, P., "Juridical Formalities and Evaluation of Evidence in the Canonical Process," in *J*, 38 (1978), 153–157.
- FELLHAUER, D.E., *The Consortium omnis vitae as a Juridical Element of Marriage*, JCD thesis (Ottawa, Faculty of Canon Law, Saint Paul University, 1979), in *Studia canonica*, 13 (1979), 3–171.
- FERNANDO, M., "The Catholic Church and 'Mixed Marriages': A Brief Historical Sketch," in *Dialogue*, 5 (1978), 66–76.
- FOSTER, J.J.M., "Sacramental Law: Selected Developments in Twenty-Five Years of Praxis," in *J*, 69 (2009), 472–515.
- FRANK, E., "A Selective Comparison of *privilegium fidei* Cases: Normative Differences," in *Ius missionale*, 7 (2013), 45–59.
- FUENTES, J.A., "Matrimonios mixtos y con disparidad de cultos en la actualidad. El matrimonio de cristianos con musulmanes," in *Forum canonicum*, 8 (2013), 9–36.
- GAJDA, E., "Nature of Mixed Marriages License," in *Folia canonica*, 2 (1999), 203–215.
- GALEA, P. and M. VELLA, "The Church Teachings on Sexual Matters: The Reaction on Young Married Couples," in *INTAMS*, 22 (2016), 82–86.
- GALLAGHER, C., "Marriage and the Family in the Revised Code," in *Studia canonica*, 17 (1983), 149–170.
- , "Marriage and the Revised Canon Law for the Eastern Catholic Churches," in *Studia canonica*, 24 (1990), 69–90.
- GALLARO, G.D., "Oikonomia and Marriage Dissolution in the Christian East," in *Folia canonica*, 11 (2008), 97–124.
- GALLARO, G.D. and D. SALACHAS, "The *ritus sacer* of the Sacrament of Marriage in the Byzantine Churches," in *Folia canonica*, 11 (2008), 135–157.

- GARCIA, C.P., “El matrimonio en el ordenamiento canónico: posibles líneas de reforma legislativa,” in *Revue de droit canonique*, 70 (2013), 195–227.
- GARCÍA, E., “Consanguinity as an Impediment,” in *BEF*, 73 (1997), 464–466.
- , “Impediment of Legal Adoption,” in *Boletín Eclesiástico de Filipinas*, 70 (1996), 669–671.
- , “The Pre-Matrimonial Investigation,” in *Boletín Eclesiástico de Filipinas*, 794 (1996), 271–273
- , “Publication of a Marriage,” in *Boletín Eclesiástico de Filipinas*, 814 (1999), 590–596.
- GARCÍA FAÍLDE, J.J., “Matrimonio canónico celebrado con impedimento de disparidad de cultos y matrimonio canónico mixto,” in *Memorias*, 24 (2000), 131–137.
- GARCIA, O., “Ecumenical Aspects of the Revised Code,” in *CLSA Proceedings*, 45 (1983), 201–220.
- GARCÍA HERVÁS, D., “La disolución del matrimonio a favor de la fe,” in *Revista española de derecho canónico*, 64 (2007), 220–257.
- GASCHE, W., “The Law Concerning Invalid Convalidations,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 52 (1982), 16–18.
- GAVIN, F., “Canon 1063: Marriage Preparation as a Lifetime Journey,” in *Studia canonica*, 39 (2005), 181–201.
- GIRAUDO, A., “La volontà della parte non battezzata: oggetto, modalità e conseguenze delle interpellazioni nel privilegio paolino (cann. 1144–1146), in *Quaderni di diritto ecclesiale*, 20 (2007), 350–362.
- GIROTTI, G., “La procedura per lo scioglimento del matrimonio nella fattispecie del privilegio paolino,” in *I procedimenti speciali nel diritto canonico*, Libreria editrice Vaticana, 1992, 157–177.
- GONZÁLEZ, J., “Marriage between Cousins,” in *Boletín Eclesiástico de Filipinas*, 76 (2000), 274–275.
- , “Matrimonial Separation,” in *Boletín Eclesiástico de Filipinas*, 79 (2003), 682–685.
- , “A Validation of Civil Marriage?” in *Boletín Eclesiástico de Filipinas*, 76 (2000), 766–770.
- GOTI ORDEÑANA, J., “El proceso para la disolución del vínculo matrimonial en favor de la fe,” in *Revista española de derecho canónico*, 62 (2005), 425–457.

- GRAMONT, I. and WAUK, L.A., "Capacity and Incapacity to Contract Marriage," in *Studia canonica*, 22 (1988), 147–168.
- GRAULICH, M., "Le garanzie o 'cauzioni' nel contesto del matrimonio misto a dello scioglimento del matrimonio *in favorem fidei*," in J.P. DOSS (ed.), *Justitiam et iudicium facere*, Rome, Pontificia Studiorum Universitas Salesiana, 2011, 165–188.
- GREEN, T.J., "Dispensation from Canonical Form in a Marriage Involving Two Catholics," in K.W. VANN and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 1995, 92–94.
- , "The Revised *Schema de matrimonio*: Texts and Reflections," in *J*, 40 (1980), 57–127.
- GRENIER, H., "Can We Still Speak of the Petrine Privilege?" in *J*, 38 (1978), 158–162.
- GROCHOLEWSKI, Z., "Der Dienst der Liebe in der kirchlichen Gerichtsbarkeit," in *De processibus matrimonialibus*, 9 (2002), 139–153.
- GÜTHOFF, E., "Das Privilegium Petrinum: Die Auflösung einer nichtsakramentalen Ehe durch päpstlichen Gnadenakt," in *De processibus matrimonialibus*, 9 (2002), 245–257.
- HANNAN, J.D., "Cases and Studies: The Impediment of Crime," in *J*, 7 (1947), 305–307.
- HAYWARD, P., "Family Law Reform and the Civil Effects of Nullity and Separation," in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 113 (1998), 40–48.
- HEREDIA, C.I., "Importancia canónica de la primera cópula conyugal," in *Anuario Argentino de derecho canónico*, 8 (2001), 57–74.
- HERVADA, J., "The Separation of the Spouses [Separation While the Bond Remains]," in E. CAPARROS, M. THÉRIAULT, and J. THORN (eds.), *Code of Canon Law Annotated*, 2nd ed., Montréal, Wilson & Lafleur Ltée, 2004, 994–898.
- HETTINGER, C.J., "The Difficult Marriage," in *Homiletic and Pastoral Review*, 2 (1999), 15–23.
- , "Invalida convalidazione di matrimonio nullo," in *Monitor ecclesiasticus*, 124 (1999), 569–583.
- , "The Law of Invalid Validation in U.S. Tribunals," in *Monitor ecclesiasticus*, 124 (1999), 554–568.
- HICKEY, J.A., "De processu super matrimonio rato et non consummato," in *J*, 1 (1941), 210–224.

- HIMES, K.R. and J.A. CORIDEN, "The Indissolubility of Marriage: Reasons to Reconsider," in *Theological Studies*, 65 (2004), 453–499.
- HEBDA, B.A., "Reflection on the Role of the Diocesan Bishop Envisioned by *Mitis Iudex Dominus Iesus*," in *J*, 76 (2016), 137–157.
- HUDSON, J.E., "Index of Selected Rotal Decisions, 1967-1975," in *Studia canonica*, 11 (1977), 67–84.
- , "Marital Consummation according to Ecclesiastical Legislation," in *Studia canonica*, 12 (1978), 93–123.
- HUELS, J.M., "Acts with a Juridic Effect in the Canon on Marriage," in *Studia canonica*, 49 (2015), 309–331
- , "Defection from the Catholic Church by a Formal Act and the Circular Letter of 13 March 2006," in *Studia canonica*, 41 (2007), 514–549.
- , "Dispensation of Two Catholics from Canonical Form by Local Ordinary," in J.J. KOURY, R. MCDERMOTT and S.M. VERBEEK (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2008, 108–111.
- , "Independent General Administrative Norms in Documents of the Roman Curia," in *J*, 76 (2016), 85–113.
- , "Interpreting Canon Law in Diverse Cultures, in *J*, 47 (1987), 249–293.
- , "A Juridical Notion of Sacraments," in *Studia canonica*, 38 (2004), 345–368.
- , "Preparation for the Sacraments: Faith, Rights, Law," in *Studia canonica*, 28 (1994), 33–58.
- , "The 1993 Ecumenical Directory: Theological Values and Juridical Norms," in *J*, 56 (1996), 391–426.
- HUMPHREYS, J., "Lack of Commitment in Consent," in *Studia canonica*, 10 (1976), 345–362.
- HÜRTH, F., "Notæ quædam ad privilegium petrinum," in *Periodica*, 45 (1956), 3–22, 371–391.
- IUNG, N., *Évolution de l'indissolubilité. Remariage religieux des divorcés*, Paris, P. Lethielleux, 1975.
- JOHNSON, J.G., "Ligamen and Multiple Marriages: Too Good to Be True?" in *J*, 42 (1982), 222–228.
- , "The Simple Convalidation as a Pastoral Problem," in *Studia canonica*, 15 (1981), 461–479.

- JULLIEN, J., "From Wedding Preparation to Preparation for Marriage," in *Lumen vitae*, 40 (1985), 367–380.
- KADAMTHODU, S., "Kerala Agreement on Inter-Church Marriages and Dissolution of Marriage Bond," in *Iustitia*, 4 (2013), 143–160.
- KAVI, J., "Mixed Marriages Challenge Asian Families," in *National Catholic Reporter*, 10 September 2015, 5–6.
- KENNEDY, J.J., "The Dissolution of Marriage in Favour of the Faith: New Norms Invite a New Look at Our Practice," in *CLSA Proceedings*, 67 (2005), 123–162.
- KENYON, E.A., "The Nature and Nullity of Matrimonial Consent: Arguments Based on Primary Sources," in *Studia canonica*, 14 (1980), 107–154.
- KITCHEN, P., "Matrimonial Intention and Simulation," in *Studia canonica*, 28 (1994), 347–406.
- KINAST, R., "Pastoral Planning and Family Life," in *J*, 42 (1982), 449–465.
- KOSNIK, A., "The Pastoral Care of Those in Canonically Invalid Marriage," in *J*, 30 (1970), 31–44.
- KOWAL, J., "Le norme per lo scioglimento del matrimonio *in favorem fidei*: parte procedurale," in *Periodica*, 93 (2004), 265–325.
- , "L'indissolubilità del matrimonio rato e consumato: Status questionis," in *Periodica*, 90 (2001), 273–304.
- , "Nuove 'Norme per lo scioglimento del matrimonio *in favorem fidei*,'" in *Periodica*, 91 (2002), 459–506.
- KOWAL, W., "The New Norms for Completing the Process for the Dissolution of the Matrimonial Bond in Favour of the Faith," in *Proceedings of the 37th Annual Convention of the Canadian Canon Law Society, Halifax, NS, October 23, 2002*, 69–88.
- , "Norms for Preparing the Process for the Dissolution of the Matrimonial Bond in Favour of the Faith," in *Folia canonica*, 8 (2005), 89–118.
- , "The Power of the Church to Dissolve the Matrimonial Bond in Favour of the Faith," in *Studia canonica*, 38 (2004), 411–438; also in P. COGAN (ed.), *Sacerdotes iuris (Digestæ 1.1): Miscellanea in Honour of William H. Woestman, O.M.I.*, Ottawa, Faculty of Canon Law, Saint Paul University, 2005, 67–94.
- , "The Presumption of the Validity of Marriage," in *Studia canonica*, 42 (2008), 181–203.

- KOWAL, W., "Quelques remarques sur la discipline de la dissolution de mariages en faveur de la foi," in *Studia canonica*, 43 (2009), 161–181.
- , "Twenty Years after the Promulgation of the Catechism of the Catholic Church: Doctrinal Foundations for Marriage," in *Studia canonica*, 47 (2013), 183–206.
- , "XVI-wieczne normy kanoniczne odnoszące się do małżeństw poligamicznych: historia i terażniejszość" (Sixteenth Century Canonical Norms for Polygamous Marriages: History and Present), in *Studia theologica Varsaviensia*, vol. 49, no. 2 (2011), 29–42.
- KUNTZ, J.M., "Deux nouveaux cas de dissolution du mariage," in *Sciences ecclésiastiques*, 12 (1960), 267–269.
- , "La dissolution du mariage et de pouvoir des clefs," in *Sciences ecclésiastiques*, 10 (1958), 321–339.
- , "The Petrine Privilege: A Study of Some Recent Cases," in *J*, 28 (1968), 486–496.
- , "Quousque se extendat Ecclesiae vicaria potestas solvendi matrimonium," in *Periodica*, 48 (1959), 335–348.
- LABELLE, J.-P., "La dissolution du lien conjugal en faveur de la foi," in *Studia canonica*, 33 (1999), 27–70.
- , "Les incidences pastorales de la dissolution du mariage non sacramentel en faveur de la foi," in *Studia canonica*, 33 (1999), 27–70.
- LADUE, W.J., "Conjugal Love and the Juridical Structure of Christian Marriage," in *J*, 34 (1974), 36–37.
- , "The Ends of Marriage," in *J*, 29 (1969), 424–427.
- LADUE, W.J., "The Sacramentality of Marriage," in *CLSA Proceedings*, 36 (1974), 25–35.
- LAWLER, M.G., "A Marital Catechumenate: A Proposal," in *INTAMS*, 13 (2007), 161–176.
- LEBEL, R.R., "Genetic Grounds for Annulment," in *J*, 38 (1976), 317–327.
- LEGRAIN, M., "Diversity of Culture and Marriage of Christians," in *Lumen vitae*, 40 (1985), 381–392.
- LESAGE, G., "The *Consortium vitae conjugalis*: Nature and Applications," in *Studia canonica*, 6 (1972), 99–113.

- LIPKA, W., "La separación matrimonial canónica: una propuesta de recuperación," in *Ius canonicum*, 41 (2001), 501–548.
- LÓPEZ GALLO, P., "Do Multiple Marriages Abolish the Documentary Process of *ligament*?" in *Studia canonica*, 30 (1996), 487–511.
- LÜDICKE, K., "Matrimonial Consent in Light of a Personalist Concept of Marriage: On the Council's New Way of Thinking about Marriage," in *Studia canonica*, 33 (1999), 473–503.
- LYNCH, J.E., "Mixed Marriage in the Aftermath of *Matrimonia mixta*," in *Journal of Ecumenical Studies*, 11 (1974), 637–659.
- MACKIN, T., "Conjugal Love and the Magisterium," in *J*, 36 (1976), 263–301.
- , "Consummation: of Contract or of Covenant? Part 2," in *J*, 32 (1972), 330–354.
- MADDEN, J., "Mixed Marriages," in *Australian Catholic Record*, 43 (1966), 153–161.
- MAGESA, L., "The Conscience of the African Church in the Synod on the Family and *Amoris Laetitia*," in *INTAMS*, 22 (2016), 154–168.
- MANNING, M., "Essential Incompatibility: A Valid Ground of Nullity?" in *Studia canonica*, 13 (1979), 339–362.
- MAKOTHAKAT, J.M., "The Directories of Episcopal Conferences Implementing *Matrimonia mixta*," in *Studia canonica*, 13 (1979), 303–338.
- MARAGNOLI, G., "La separazione personale dei coniugi tra legge della Chiesa e legge dello Stato in Italia," in *Quaderni di diritto ecclesiale*, 13 (2000), 169–191.
- MARCHETTA, B., "Il processo 'super matrimonio rato et non consummato' nel nuovo Codice di diritto canonico," in Z. GROCHOLEWSKI and V. CÁRCEL ORTÍ (eds.), *Dilexit iustitiam, studia in honorem Aurelii Card. Sabattani*, Libreria editrice Vaticana, 1984, 405–430.
- MARRONCLE, J., "Dawning Couples," in *Lumen vitae*, 40 (1985), 404–411.
- MARTENS, K., "Sacrament and Contract regarding Canonical Procedure," in *Revue de droit canonique*, 53 (2003), 159–174.
- MARTÍN DE AGAR, J.T., "Matrimonio putativo y convalidación automática del matrimonio nulo," in *Ius canonicum*, 41 (2001), 293–317.
- MATTHEWS, K., "Validations: Valid and Invalid," in *Canon Law Society of Australia and New Zealand*, Spring 1986, 37–45.

- MCAREAVEY, J., "Mixed Marriages: Conversations in Theology, Ecumenism, Canon Law and Pastoral Practice," in *Canon Law Society of Great Britain and Ireland Newsletter*, no. 140 (2004), 7–31.
- MCCORD, H.R., "What Do We Know about Marriage Preparation," in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 119 (1999), 77–86.
- MCCORMACK, A.R.A., "A Commentary on the Norms for Favour of the Faith Cases," in *J*, 65 (2005), 268–336.
- MCGRATH, A., "On the Gravity of Inability to Assume the Essential Obligations of Marriage," in *Studia canonica*, 22 (1985), 67–75.
- MCNEIL, B., "Reflections on the Synod on the Family," in *INTAMS*, 22 (2016), 87–89.
- MELLI, R., "Breve commentarium ad litteras circulares 'De processu super matrimonio rato et non consummato' missas a Congregatione pro Sacramentis die 20 decembris 1986," in *Monitor ecclesiasticus*, 112 (1987), 430–434.
- MENDONÇA, A., "The Correct Interpretation of Canons 1150 and 1608, §4," in *Studia canonica*, 31 (1997), 475–512.
- , "The Effect of Personality Disorders on Matrimonial Consent," in *Studia canonica*, 21 (1987), 67–123.
- , "The Importance of Considering Cultural Contexts in Adjudicating Marriage Nullity Cases with Special Reference to Countries of Southeast Asia," in *CLSA Proceedings*, 57 (1995), 231–292.
- , "The Incapacity to Contract Marriage," in *Studia canonica*, 19 (1985), 259–325.
- , "Radical Sanation of a Marriage," in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2004, 156–159.
- , "Recent Rotal Jurisprudence from a Sociocultural Perspective," in *Studia canonica*, 29 (1995), 29–83.
- , "Recent Trends in Rotal Jurisprudence," in *Studia canonica*, 28 (1994), 167–230.
- , "The Relationship between Canon Law and Pastoral Care: A Brief Analysis of Benedict XVI's 2011 Allocution to the Roman Rota," in *Philippine Canonical Forum*, 13 (2011), 169–188.
- , "The Theological and Juridical Aspects of Marriage," in *Studia canonica*, 22 (1988), 265–304.
- , "Use of the Pauline Privilege," in *Studies in Church Law*, 2 (2006), 403–409.

- MIGLIAVACCA, A., “Modelli e formulari per l’applicazione del privilegio paolino,” in *Quaderni di diritto ecclesiale*, 20 (2007), 395–401.
- , “Privilegio paolino: alcuni casi particolari (cf. cann. 1147–1149), in *Quaderni di diritto ecclesiale*, 20 (2007), 363–377.
- MONETA, P., “Il privilegio paolino,” in P.A. BONNET et C. GULLO (dir.), *Diritto matrimoniale canonico*, vol. 3, Città del Vaticano, 2005.
- , “Le nuove norme per lo scioglimento del matrimonio in favore della fede,” in *Il diritto ecclesiastico*, 113 (2002), 1331–1346.
- MONTES GARCÍA, A., “*Favor fidei*” y matrimonio en la codificación del CIC 1917, Rome, Pontificia Universitas Sanctae Crucis, 1999.
- MORRISEY, F.G., “The Canons on Marriage in the New Code of Canon Law,” in *Pastoral Life*, 33 (1984), 2–13.
- , “The Impediment of Ligamen and Multiple Marriages,” in *J*, 40 (1980), 29–68.
- , “The Incapacity of Entering into Marriage,” in *Studia canonica*, 8 (1974), 5–21.
- , “Matrimonial Legislation: Towards New Church Law,” in *Origins*, 4 (1974–1975), 321–328.
- , “The Motu proprio *Mitis Iudex Dominus Iesus*,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 184, 2015, 19–69.
- , “Outline for a Spirituality of the Family in the Light of the Apostolic Exhortation, *Amoris Laetitia*,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 188, 2016, 31–45.
- , “Preparing Ourselves for the New Marriage Legislation,” in *J*, 33 (1973), 343–357.
- , “Proposed Legislation on Defective Matrimonial Consent,” in *CLSA Proceedings*, 36 (1974), 71–82.
- , “Revising Church Legislation on Marriage,” in *Origins*, 9 (1979–1980), 209–218.
- , “Some Pastoral Implications Arising from Chapter VIII of the Apostolic Exhortation *Amoris laetitia*,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 186 (2016), 53–80.
- MÛELENAERE, M.D., “Cultural Adaptation and the Code of Canon Law,” in *Studia canonica*, 19 (1985), 31–59.
- MULLADY, B.T., “Marriage of Deceased Spouse’s Sibling,” in *Homiletic and Pastoral Review*, 12 (2006).

- MULLAN, J.B. "Nullity and Convalidation of Marriage," in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 50 (1981), 34–40.
- MURPHY, J., "Reflection on Marriage Preparation: A Review of McCord's work," in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 119 (1999), 11–17.
- NAVARRETE, U., "Acta Tribunalium Sanctæ Sedis, Supremum Signaturæ Apostolicæ Tribunal, decretum. Commentario," in *Periodica*, 96 (2007), 285–306.
- , "Commentarium decreti Signaturæ Apostolicæ de recta applicatione canonum 1150 et 1608, §4," in *Periodica*, 85 (1996), 360–385.
- , "De iure ad vitæ communionem: observationes ad novum Schema canonis 1086, §2," in *Periodica*, 66 (1977), 406–418.
- , "De notione et effectibus consummationis matrimonii," in *Periodica*, 59 (1970), 619–660.
- , "De sensu clausulæ 'Dummodo non determinet voluntatem' can. 1099," in *Periodica*, 81 (1992), 469–493.
- , "De termino 'privilegium petrinum' non adhibendo," in *Periodica*, 53 (1964), 323–375.
- , "Error circa personam et error circa qualitates communes seu non identificantes personam (c. 1097)," in *Periodica*, 82 (1993), 47–80.
- , "'Favor fidei' e 'salus animarum'," in ID., *Quædam problemata actualia de matrimonio*, tertia editio notabiliter aucta, Rome, Pontificia Universitas Gregoriana, 1980, 516.
- , "«Incapacitas assumendi onera» uti caput antonomum nullitatis matrimonii," in *Periodica*, 61 (1972), 47–80.
- , "Indissolubilitas matrimonii rati et consummati: opiniones recentiores et observationes," in *Periodica*, 68 (1969), 415–489.
- , "A proposito del decreto del S.T. della Segnatura Apostolica del 23 novembre 2005," in *Periodica*, 96 (2007), 307–361.
- , "Potestas vicaria Ecclesiæ. Evolutio historica conceptus atque observationes attenta doctrina Concilii Vaticani II," in *Periodica*, 60 (1971), 415–486.
- , "Response about the Validity of Baptism Conferred in the 'Church of Jesus Christ of the Latter-Day Saints'," in *Forum*, 12 (2001), 35–43.

- NAVARRETE, U., "Observaciones al concepto y teorías actuales de la potestad vicaria del Romano Pontífice," in *Atti del Congresso Internazionale di Diritto Canonico – Roma, 14–19 Gennaio 1970*, Milan, Dott. A. Giuffrè Editore, 1972, 949–953.
- NEDUNGATT, G., "Minister of the sacrament of marriage in the East and the West," in *Periodica*, 90 (2001), 305–388.
- NICOLCA, G.P.D. and A. DANESE, "Notes on *Amoris laetitia*," in *INTAMS*, 22 (2016), 3–14.
- NIEVA GARCÍA, J.A., "La convicción subjetiva de la nulidad del matrimonio en los divorciados vueltos a casar y los sínodos de los obispos sobre 'los desafíos pastorales de la familia en el contexto de la evangelización'," in *Revista española de derecho canónico*, 71 (2014), 723–780.
- NOONAN, J.T. JR., "Privilege of the Faith: Divorce or Dispensation?" in *J*, 65 (2005), 412–420.
- O'COLLINS, G., "The Joy of Love (*Amoris laetitia*): The Papal Exhortation in Its Context," in *Theological Studies*, 77 (2016), 905–921.
- O'NEILL, W.P., "Toward an Understanding of the Marriages of Those in Law Enforcement," in *Studia canonica*, 13 (1979), 403–427.
- O'ROURKE, J.J., "Considerations on the Convalidation of Marriage," in *J*, 43 (1983), 387–391.
- , "The Faith Required for the Privilege of the Faith Dispensation," in *J*, 36 (1976), 450–455.
- , "Thought on Marriage," in *Studia canonica*, 22 (1988), 187–192.
- ORLANDI, G., "De casibus 'difficilioribus' in processibus super matrimonio rato et non consummato," in *Monitor ecclesiasticus*, 110 (1985), 246–252.
- ÖRSY, L., "Christian Marriage: Doctrine and Law – *Glossae* on Canons 1012–1015," in *J*, 40 (1983), 282–348.
- , "Faith, Sacrament, Contract, and Christian Marriage: Disputed Question," in *Theological Studies*, 43 (1982), 379–398.
- , "Marriage in the New Code of Canon Law," in *Theology Digest*, 31 (1984), 203–212.
- , "Matrimonial Consent in the New Code: *Glossae* on Canons 1057, 1095–1103, 1107," in *J*, 43 (1983), 29–68.
- , "*Sacrae disciplinae leges*: Forty Years after the Council," in *J*, 67 (2007), 15–38.

- ORTÍZ, M.A., “La forma canonica quale garanzia della verità del matrimonio,” in *Ius Ecclesiae*, 15 (2003), 371–406.
- , “Questions concerning the Form of Marriage, ‘Invalid Convalidation’ and the Extent of Its Force after the M.P. *Omnium in mentem*,” in P.M. DUGAN and L. NAVARRO (eds.), *Matrimonial Law and Canonical Procedure: A Continuing Education Course Held at the Pontifical University of the Holy Cross (Rome, 20–24 September 2010)*, Montreal, Wilson and Lafleur Ltée, 2013, 329–374.
- OSTERLÉ, G. and R. NAZ, art. “Consommation. Non-Consommation du mariage,” in R. NAZ (ed.), *Dictionnaire de droit canonique*, vol. 4, Paris, Letouzey et Ané, 1935–1965, col. 361–390.
- , art. “Privilège paulin,” in R. NAZ (ed.), *Dictionnaire de droit canonique*, vol. 7, Paris, Letouzey et Ané, 1935–1965, col. 229–280.
- PALMER, P.F., “Christian Marriage: Contract or Covenant?” in *Theological Studies*, 33 (1972), 617–665.
- , “Needed: A Theology of Marriage,” in *Communio*, 1 (1974), 243–260.
- PAOLIS, V. DE, “Appropriate Pastoral Approaches for the Divorced Remarried,” in *J*, 74 (2014), 153–192.
- PELLEGRINO, P. “L’Impedimento del voto pubblico perpetuo di castità in un istituto religioso nel nuovo diritto matrimoniale canonico (CIC, can. 1088; CCEO, can. 805),” in *Ius canonicum*, 40, (2000), 73–98.
- , “L’Impedimento di affinità nel matrimonio canonico (CIC, can. 1092; CCEO, can. 809, §1–2),” in *Ius canonicum*, 43 (2003), 233–248.
- PEÑA GARCÍA, C., “La disolución pontificia del matrimonio *in favorem fidei*: Cuestiones sustantivas y procesales,” in *Estudios eclesiológicos*, 81 (2006), 699–723.
- PETER, V.J., “Divorce, Remarriage, and the Sacraments – *Quod potest debet*?” in *J*, 42 (1982), 122–140.
- PETERS, E.N., “On the Impugnation of a Marriage by a Promoter of Justice on the Basis of Crimen,” in *Periodica*, 100 (2011), 65–79.
- PAPERON, B., “Divorce in Hebrew Tradition: Talmudic Sources,” in *Revue de droit canonique*, 48 (1998), 7–28.
- PIVONKA, L.D., “Ecumenical or Mixed Marriage in the New Code of Canon Law,” in *J*, 43 (1983), 103–124.
- POMPEDDA, M.F., “Faith and the Sacrament of Marriage – Lack of Faith and Matrimonial Consent: Juridical Aspects,” in *Marriage Studies*, 4 (1990), 33–65.

- POMPEDDA, M.F., “La nozione di matrimonio ‘rato e consumato’ secondo il can. 1061, §1 del C.I.C. e alcune questioni processuali di prova in merito,” in *Monitor ecclesiasticus*, 110 (1985), 339–364.
- PONTEVILLE, G., “Preparing Young Couple for Marriage: Present-day Experience,” in *Lumen vitae*, 40 (1985), 412–422.
- “The Power of the Pope and the Marriage of the Baptized,” in *L’Osservatore Romano*, English ed., 25 November 1998, 2.
- READ, G., “A Comment on the Recent Circular Letter from the Congregation for Divine Worship and the Discipline of the Sacraments concerning Dispensation from Priestly Obligations and of Deacons from the Impediment of Orders,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 112, 1997, 40–44.
- , “Invalid Convalidation,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 124 (2000), 11–17.
- , “Invalid Dispensation from Canonical Form,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 142 (2005), 74–75.
- , “Revised Norms for Dissolution in Favour of the Faith,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 127 (2001), 64–67.
- , “The Origins of the Promises to Be Made in a Mixed Marriage,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 118 (1999), 41–44.
- RENKEN, J.A., “Extraordinary Convalidation: The Radical Sanation of an Invalid Marriage,” in *Periodica*, 99 (2010), 461–501.
- RINCÓN-PÉREZ, T., “Pastoral Care and the Prerequisites for the Celebration of Marriage (cc. 1063–1072),” in *Exegetical Comm*, vol. 3, 1112.
- ROBINSON, G., “Unresolved Question in the Theology of Marriage,” in *J*, 43 (1983), 69–102.
- ROBINSON, P., “Pre-Marriage Agreements,” in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 118 (1999), 25–33.
- ROBITAILLE, L.A., “Conditioned Consent: Natural Law and Human Positive Law,” in *Studia canonica*, 29 (1992), 75–110.
- , “Defective Validations of Marriages Lacking Canonical Form: An Interpretation of Total Simulation,” in *J*, 66 (2006), 436–468.

- ROBITAILLE, L.A., “Defective Validations Revisited,” in V.G. D’SOUZA (ed.), *In the Service of Truth and Justice*, Festschrift in Honour of Prof. Augustine Mendonça Professor Emeritus, Bangalore, Centre of Canon Law Studies, St Peter’s Pontifical Institute, 2008, 167–190.
- , “Pastoral Care and Those Things Which must precede the Celebration of Marriage (1063-1072),” in *CLSA Comm2*, 1261–1271.
- , “The Vetitum and Monitum: Consequences of Marriage Nullity or Pastoral Preparation for a New Marriage?” in *Studia canonica*, 38 (2004), 37–110.
- ROMA, B., “La riconciliazione dei coniugi,” in *Ius Ecclesiae*, 17 (2005), 463–489.
- RUSTER, T., “The Sacrament of Marriage as Something Unique to the Catholic Church: Thoughts about Separating Nature, Contract and Sacrament,” in *INTAMS*, 19 (2013), 4–12.
- RYAN, P.F. and G. GRISEZ, “Indissoluble Marriage: A Reply to Kenneth Himes and James Coriden,” in *Theological Studies*, 72 (2011), 369–415.
- SABBARESE, L., “The Dissolution of a Non-Sacramental Marriage in Favour of the Faith,” in *Studies in Church Law*, 1 (2005), 199–245.
- , “Lo scioglimento del vincolo matrimoniale in favore della fede,” in *Angelicum*, 82 (2005), 673–713.
- SAID, M., “De processu de præsumptæ mortis coniugis,” in Z. GROCHOLEWSKI and V. CÁRCEL ORTÍ (eds.), *Dilexit iustitiam, studia in honorem Aurelii Card. Sabattani*, Liberia editrice Vaticana, 1984, 431–455.
- SAJE, A., “Lo sviluppo della forma della celebrazione del matrimonio nella Chiesa Occidentale e nella Chiesa Orientale nel caso in cui manca l’assistente competente,” in *Folia canonica*, 10 (2007), 71–85.
- SANSON, R.J., “Jurisprudence for Marriage: Based on Doctrine,” in *Studia canonica*, 10 (1976), 5–36.
- SCIACCA, G., “Relación entre fe y matrimonio sacramental,” in *Ius communionis*, 3 (2015), 75–93.
- SCIRGHI, J.T., “One Body, Two Churches: Sharing the Eucharist in an Inter-Church Marriage,” in *J*, 60 (1999), 432–447.
- SHEEHY, G., decision 54 (Dublin), 10 November 1976, in *Matrimonial Decisions for England and Wales from 1976*, vol. 12, 163–166.

- SHEEHY, G., "Nullity and Convalidation of Marriage: Some Observations on Canon Mullan's Article," in *Canon Law Society of Great Britain & Ireland Newsletter*, no. 52 (1982), 12–15.
- SILVESTRELLI, A., "Scioglimento del matrimonio *in favorem fidei*," in *I procedimenti speciali nel diritto canonico*, Studi giuridici, no. 27, Libreria editrice Vaticana, 1992.
- SKILLIN, H.D., "Some Reflections on Discretion for Marriage from a Tribunal Practitioner's Perspective," in *J*, 53 (1993), 371–384.
- SORRENTINO, D., "Procedure canoniche e prospettive teologico-spirituali," in *Notitiæ*, 40 (2004), 618–626.
- ST. LOUIS-SANCHEZ, A., "Separation of Spouses *propria auctoritate* and the Nature of Ecclesiastical Intervention," in *Studia canonica*, 48 (2014), 493–530.
- SULLIVAN, K.T. and P.J. FITZGERALD, "Preparing for Marriage: What Pastoral Marriage Counsellors should know about Religious Belief, Psychological, and Marital Outcome," in *INTAMS*, 7 (2001), 68–74.
- SULLIVAN, T.G., "Canonical Supports for Collaboration in Sacramental Ministry," in *Proceeding of the Canon Law Society of America*, 71 (2009), 243–282.
- THENGUMPALLY, S.J., "Marriages of Unbaptized Persons: Misapprehensions and the Right Approach of the Church," in *Eastern Legal Thought*, 9–10 (2010–2011), 42–85.
- TOMKO, J., "De dissolutione matrimonii in favorem fidei eiusque fundamento theologico," in *Periodica*, 64 (1975), 99–140.
- TREVISAN, G., "Il privilegio paolino: Delineazione fondamentale del privilegio," in *Quaderni di diritto ecclesiale*, 20 (2007), 343–349.
- VELARDE, H., "The Registration of Authority to Solemnize Marriage with the Civil Registrar General," in *Philippine Canonical Forum*, 10 (2008), 313–320.
- VERSALDI, G., "Exclusio sacramentalitatis matrimonii ex parte baptizatorum non credentium: error vel potius simulatio?" in *Periodica*, 79 (1990), 421–440.
- VISIOLI, M., "Il privilegio paolino: una deroga al principio di indissolubilità?" in *Quaderni di diritto ecclesiale*, 20 (2007), 378–394.
- VONDENBERGER, V., "Validity of Marriage and Non-Age," in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 2004, 155–156.

- WALKER, E., "The Invalid Convalidation: A Neglected 'caput nullitatis'," in *Studia canonica*, 9 (1975), 325–336.
- WIJLENS, M., "Inter-church Marriages and Pastoral Care in Sickness: A Canonical Consideration," in *CLSANZ Proceedings*, 45 (2011), 91–108.
- WRENN, L.G., art. "Marriage (Canon Law)," in W.J. McDONALD (ed.), *New Catholic Encyclopedia*, vol. 17, New York, NY, McGraw-Hill, 1979, 384–388.
- , "Epilepsy and Marriage," in *J*, 32 (1972), 91–101.
- , "Invalid Convalidation," in *J*, 32 (1972), 253–265.
- , "Marriage and Cohabitation," in *J*, 27 (1967), 85–89.
- , "Marriage Tribunal and the Expert," in *The Bulletin of the National Guide of Catholic Psychiatrists*, 1979, 53–68.
- , "A New Condition Limiting Marriage," in *J*, 34 (1974), 292–315.
- , "Notes But Mostly Footnotes on Presumptions," in *J*, 30 (1970), 206–215.
- , "Notes on Canonical Jurisprudence," in *J*, 29 (1969), 57–69.
- , "Simple Error and the Indissolubility of Marriage," in *J*, 28 (1968), 84–88.
- WROCEŃSKI, J., "Separacja w prawie kanonicznym," in *Forum iuridicum*, 2 (2003), 173–188.
- WOESTMAN, W.H., "Dissolution of a Ratified but Non-Consummated Marriage: A Procedure Sinking into Oblivion?" in *Studia canonica*, 21 (1987), 195–197.
- , "Judges and the Incapacity to Assume the Essential Obligations of Marriage," in *Studia canonica*, 21 (1987), 315–323.
- , "Too Many Invalid Marriages," in *Studia canonica*, 24 (1990), 193–204.
- WOJNAR, M., "Legal Relationship and Guardianship as Matrimonial Impediments," in *J*, 30 (1970), 343–355, 456–497.
- ZANETTI, E., "La Chiesa ammette la separazione fra coniugi?" in *Quaderni di diritto ecclesiale*, 13 (2000), 117–145.
- ZUSY, J.B., "Matrimonial Consent and Immaturity," in *Studia canonica*, 15 (1981), 199–239.

BUDDHIST SECTION

- BARUA, R.B., "The Marriage Ceremony of Buddhist," in *Maha Bodhi*, 73 (1965), 245–250.
- BASHAM, A.L., "Asoka and Buddhism: A Re-Examination." in *Journal of the International Association of Buddhist Studies*, 5 (1982), 131–143.
- COUSINS, L.S., "Ethical Standard in World Religious: III. Buddhism," in *The Expository Times*, 1974 (85), 100–104.
- DAVIS, W., "Buddhism and the modernization of Japan," in *History of Religions*, 28 (1989), 304–339.
- EVANS, D., "A Note and Response to "The Buddhist Perspective on Respect for Persons," in *Buddhist Studies Review*, 4 (1987), 97–98.
- GOKHALE, B.G., "Early Buddhist Kingship," in *Journal of Asian Studies*, 26 (1966), 45–22.
- HARRIS, L., "How Environmentalist is Buddhism?" in *Religion*, 21 (1991), 101–114.
- , "Buddhist Environmental Ethics and Detraditionalization: The Case of Eco Buddhism," in *Religion*, 25 (1995), 199–211.
- HARVEY, P., "The Buddhist Perspective on Respect for Persons," in *Buddhist Studies Review*, 4 (1987), 31–46.
- HIRAKAWA, A., "The Formation of the Pañca-śīla in Early Buddhism," in *World Fellowship of Buddhist Review*, 32 (1995), 8–23.
- HUXLEY, A., "Buddhism and Law: The View from Mandalay," in *Journal of the International Association of Buddhist Studies*, 18 (1995), 47–95.
- , "Studying Theravada Legal Literature," in *Journal of the International Association of Buddhist Studies*, 20 (1997), 63–91.
- INADA, K., "A Buddhist Response to the Nature of Human Rights," in *Journal of Buddhist Ethics*, 2 (1995), 55–66.
- LINDBECK, V., "Thailand: Buddhism Meets the Western Model," in *The Hastings Center Report*, 14 (1984), 24–26.
- PFANNER, D.E., and J. INGERSOLL, "Theravada Buddhism and Village Economic Behavior: A Burmese and Thai Comparison," in *Journal of Asian Studies*, 21 (1962), 341–361.
- ROJANAPHRUK, "A Man on the March," in *World Fellowship of Buddhist Review*, 32 (1995), 67–70.

- SANTIKARO, "Buddhadasa Buhikkhu: Life and Society through the Natural Eyes of Voidness," in *Queen and King*, 1996, 147–194.
- SCHMITHAUSEN, L., "The Early Buddhist Tradition and Ecological Ethics," in *Journal of Buddhist Ethics*, 4 (1997), 1–74.
- SILVA, L., "Buddhist-Christian Mix Marriages: A Buddhist Viewpoint," in *Dialogue*, 5 (1978), 59–65.
- SMITH, H.E., "The Thai Rural Family," in M.S. Das and P.D. Bardis (eds.), in *The Family in Asia*, London, George Allen & Unwin, 1979, 16–46.
- SPIRO, M.E., "Buddhism and Economic Action in Burma," in *American Anthropologist*, 68 (1966), 1163–1173.
- SPONBERG, A., "Attitudes towards Women and the Feminine in Early Buddhism, in *Cabezón*, 1992, 3–36.
- SWEARER, D.K., "Community Development in Thai Buddhism," in *Visakha Puja*, Bangkok, Buddhist Association of Thailand, 1973, 59–67.
- , "Sulak Sivaraksa's Buddhist Vision for Renewing Society," in *Queen and King*, 1996, 195–235.
- TANGWISUTTIJ, N., "An Environmentalist Monk," in *World Fellowship of Buddhists Review*, 27 (1990), 53–55.
- HINÜBER, V.O., "Buddhist Law According to the Theravada–Vinaya: A Survey of Theory and Practice," in *Journal of the International Association of Buddhist Studies*, 18 (1995), 7–45.
- YUTHOK, K.G., "The Five Precepts and the Vajrayāna," in *World Fellowship of Buddhists Review*, 32 (1995), 45–56.

BIOGRAPHICAL NOTE

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