



## Stanislav Příbyl, *Kanonické manželské právo* Nová Ves pod Pleší: Hesperion, 2021, 175 pp.

The issues of marriage and family are still an area of keen interest for professionals and the public, which is confirmed, among other things, by the experience in the teaching of Church law: matrimonial law enjoys the greatest interest in both faculties of theology and faculties of law. It is therefore necessary and useful to publish books on matrimonial law, with a different focus, scientific, practical or pedagogical.

The present monograph, *Kanonické manželské právo* [Canonical Matrimonial Law], meets these requirements, especially the last one mentioned, that is, the pedagogical one. It is a university textbook by its nature and is also advertised as such in electronic form (PDF) on the website of the Faculty of Law of the University of Trnava (<http://publikacie.iuridica.truni.sk/ucebnice/>) under the title *Výbrané problémy kanonického manželského práva* [Selected Questions of Canonical Matrimonial Law] with the same content and delivery. The character of the textbook is maintained by the absence of footnotes, but the monograph is based on a rich bibliography containing works in Czech, Slovak, Polish, German, and Italian.

Apart from the preface and conclusion, the monograph is divided into sixteen chapters: (1) The sacramentality of marriage, (2) The concept of marriage, (3) The goals of marriage, (4) The essential properties of marriage, (5) The marital consent, (6) The scope of application of the canonical matrimonial law, (7) Preparation for marriage and pastoral care of families, (8) Effects of marriage, (9) Prohibitions of marriage, (10) Marital impediments in general, (11) Marital impediments in particular, (12) The canonical form, (13) Marital consent and its defects, (14) Dissolution of marriage, (15) Separation during marriage, and (16) Convalidation and sanation of marriage. It is obvious that the author tries to cover the whole area of matrimonial law both theoretically (this applies especially to the first six chapters) and practically (the other ten chapters).

We can talk about the theoretical part and the practical part of this monograph in this way, although the author does not mention it anywhere.

Because this textbook is not intended for students of a complete course in Catholic theology, the first six chapters of its theoretical part, although they put it into theological and historical context, do not go into detail or deal with the subtle issues discussed. Thus, these chapters are relatively short, taking up a total of 29 pages. In contrast, the remaining ten chapters of the practical part form the more important and much more elaborate part of this monograph. This is also evident from the length of the text, which occupies a total of 130 pages. Not all the chapters are of a similar length: more than ten pages are devoted to questions of prohibitions of marriage, marital impediments, the canonical form of marriage, the annulment of marriage, and, above all, marital consent and its defects.

The longest and most thorough treatment concerns the issue of marital consent and of its defects (44 pages), in accordance with its doctrinal and legal significance. Marital consent is not only the efficient cause (*causa efficiens*) of the origin of marriage, in it the mutual personal, lifelong, and integral commitment of man and woman is realized. As a human act (*actus humanus*), it is most evidenced by moral theology, which is the starting point and corrective factor for canon law; moreover, most of the reasons for examining the validity of marriage concern precisely the area of marital consent, or rather the defects of marital consent.

In his explanation, as the author states in the preface, he follows the systematics of the 1983 Code of Canon Law, which, however, he sometimes abandons in favour of a more systematic treatment of the matter. The author's insight into the doctrinal and canonical tradition of the Catholic Church is an indisputable enrichment for the reader; he very often refers to the provisions of the Council of Trent (1545–1563), which for the first time comprehensively discussed the most important areas of the doctrine of marriage and the resulting legislation. The work is thus of considerable scientific value, without, however, abandoning the basic mission of the textbook: an intelligible introduction to the material treated. Here the author's practical experience as a judge of an ecclesiastical court comes to the fore, as he often gives examples from judicial practice, especially in the area of the defects of marital consent. This is an extremely valuable asset of this work, especially for lay lawyers, but not only for them, as it provides insight into the practice of the Church tribunals, which is often misunderstood and questioned, even by believers, also in the Catholic Church. Although it is not the author's stated intention, this publication can serve as a guide for persons whose church marriage has broken down, not only as a guide for seeking the truth about their own marriage through proceedings in the ecclesiastical tribunals, but also as a reference to practical criteria for discerning the severity of the difficulties that caused the breakdown of the marriage. In this way, this

monograph can also fulfil the goal of practical pastoral help in addition to its pedagogical goal.

The author applies an extensive knowledge of canon law: in addition to the 1983 Code of Canon Law, which is listed in the bibliography, he also draws on the legislation of the previous Code of Canon Law of 1917 and the Code of Canons of the Eastern Churches (1990), but without mentioning them in the bibliography, as well as on older and more recent Church documents, for example, *Casti connubii* of Pius XI (1930) and *Sacra virginitas* of Pius XII (1945) and from the document of the Pontifical Council for the Family, the Charter of the Rights of the Family of 1983, of which only the first encyclical is mentioned in the bibliography, as well as from the Catechism of the Catholic Church (Latin edition of 1997) and the relevant documents of Popes John Paul II and Francis, which are mentioned in the bibliography. As this is a textbook without notes, it is possible that some of the quotations are secondary quotations, which is permissible in publications with a pedagogical focus.

The author also considers secular family law, especially Czech family law, as well as the law of other larger Christian Churches, which are present in the Czech Republic. It thus leads to a more comprehensive view of marriage and related issues, not only from a purely Catholic ecclesial point of view, but also taking into account the reality of the life of faithful Catholics in civil society with its laws and rules to be respected, and from the point of view of the teaching and practice of other Christian churches. It thus responds to the insistent demands of practice, where church marriage between a Catholic man and a Catholic woman is already a minority phenomenon in the situation of the Czech Republic, while marriages between a Catholic and an unbaptized party clearly prevail, and there is no lack of mixed marriages, that is, between a person of the Catholic faith and a person of another Christian faith. Therefore, this monograph also has an ecumenical dimension.

The publication is definitely worth both scientific appreciation and careful reading, which is informative in many ways, despite the abovementioned shortcomings, especially in the bibliography, and therefore I have gladly read it myself and I can recommend it to a wide range of readers, both those dealing with secular or Church law and members of Christian churches. I would also like to recommend this book to people of other religious groups, as well as to those wishing to learn the Catholic understanding of marriage from the outside as it is developed in legal practice.

*Damián Němec*

*Palacký University of Olomouc, Czech Republic*

 <https://orcid.org/0000-0002-9960-2452>