



Ján Duda, *Manželské právo katolíckej cirkvi v kontexte súčasnosti* [Matrimonial Law of the Catholic Church in the Context of the Present]. Praha: Legis, 2021, pp. 207

We are currently witnessing numerous crises resulting in many values being threatened or becoming “fluid.” Typical of the modern society today is that the values—which once were a cornerstone of society with clearly defined rules—are now becoming vague or disappearing altogether. This shift in values has impacted the institution of marriage the hardest. The Church has always considered the institution of marriage as one of her priorities and of vital importance. It is because the marriage itself, in line with the teachings of the Catholic Church, provides one with an opportunity to create a happy union between a man and a woman as a place for welcoming and raising children.

Ján Duda’s monograph entitled *Matrimonial Law of the Catholic Church in the Context of the Present* is a response to those tendencies. At the same time, it is a result of many years of his scholarly research as a renowned expert in the field of canon and marriage law.

In the introduction of his monograph, Prof. Duda aims to present the valid canon law pertaining to the institution of marriage, pointing to the strengths and weaknesses of this legislation. Also, the author emphasizes what is divine and intrinsically inviolable in this law and what ought to be changed and modified given the present circumstances and needs of both individuals and society, having *de lege ferenda* in mind. The author stresses that marriage is above all a natural institution and stems from a natural composition of a human being. In the past, too, we have experienced several uproars regarding the institution of marriage. Despite that, it seems that the marital institution has been able to overcome these problems, just because it is a natural institution. Prof. Duda discusses to what extent the legal institution of marriage, and other legal insti-

tutions related to marriage, correspond to the natural foundation of this sacrament. The author also draws attention to the need to adopt pastoral and legal approaches used today to provide help to the faithful who are experiencing difficulties in marriage.

In the introduction to his monograph, Prof. Duda seeks the appropriate course of action for the Catholic Church in providing this assistance. Should it concern simplifying the canonical matrimonial substantive and procedural legislation, or should it concern providing better access to expert legal advice for those faithful of the Catholic Church who need it, while taking into consideration the complexity of the current understanding of canonical matrimonial law?

The monograph contains eight chapters. In the first chapter, entitled “Definition, Legal Nature and Typology of Marriage,” the author emphasizes that marriage is primarily a natural institution that is anchored in the natural physical and spiritual constitution of a human being. The anthropological natural constitution of human beings as a man and a woman, with a potential to procreation and child rearing, creates obvious and natural limitations for certain unnatural unions. In their own way, these limitations function as defence mechanism that are in favor of marriage as a lasting union between a man and a woman. That is why the canon law will always tend to express this true and natural reality through its legal concepts, such as those defined in can. 1055 CIC and can. 778 § 1 CCEO. In a way, the legal definitions of marriage according to the Roman law are still relevant because they were created and anchored in the natural law.

The author also focuses on pre-marital counselling pointing to the legislative regulation in this area. At the same time, he proposes a solution that it appears to be the post-synodal apostolic exhortation *Amoris Laetitia*. Quoting from the eighth chapter of the exhortation: “accompanying, discerning and integrating”—Prof. Duda points out that to accompany entails not only the currently effective legal solution to the problems of marriage. It also means showing closeness and trust.

Regarding the marriage preparation and the legal framework defining such preparation, Prof. Duda points out the need to emphasize the theological significance of marriage as a sacrament. Very interesting is the interpellation to the members of the Catholic Church to accentuate that it is worth to marry spiritually, socially, and legally “before the Lord” and to live “in conformity with the Lord.” Surely, this is primarily a task for theologians, but, as the author asserts, canonists too should have their say.

In the following chapters of his monograph, the author looks at the spousal consent, its definition, and the ways of expressing the spousal consent. He provides the view of CCEO, too. Prof. Duda also discusses in detail the distorted spousal consent, citing the practice of the ecclesiastical courts and relying on

renowned canonists such as Pompedda or Castaño and the judgments of the Roman Rota.

Regarding marriage impediments, the author mentions new realities that legal scholarship has not addressed in the past, including the problem of homosexuality or the surgically produced female vagina. The author brings the CCEO's perspective to this issue as well. He offers a more detailed historical outline while presenting the current legal regulations and challenges of mixed marriages.

In the chapter entitled "Assisting in Difficult Matrimonial Situations," Prof. Duda discusses validity or invalidity of a marriage. He focuses on the processes of matrimonial nullity starting with filing of a petition for a review of the validity of marriage. The faithful who have doubts about the validity of their marriage can find valuable information here.

Towards the end of his monograph, Prof. Duda discusses marriage nullity procedures. He states that these procedures are not a violation of the principle of the indissolubility of marriage. When thought of otherwise, it is because within the Church, the laity and oftentimes the clergy, too, find this procedure in comprehensible. For a better understanding, the author recommends improving communication when explaining the doctrine concerning the marriage nullity procedure, so that it is clearer. Prof. Duda does not omit to mention the juridical regulation to simplify the marital processes, as addressed by the Holy Father Francis in *Mitis Iudex*, where he expresses his wish to involve the bishops in the implementation of the marriage nullity procedures through the process of *coram Episcopis*.

The publication of the monograph discussing the institution of marriage in the Catholic Church today is an excellent contribution to the debate that has arisen in the Church following the Synod on the Family and the subsequent reform of the procedure concerning marriage nullity. I can recommend this monograph not only to the faithful and to clergy of the Catholic Church, but also to the broader public interested in learning about the institution of marriage and its perception by the Catholic Church.

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