

## PRINCIPLES OF STATE-CHURCH COOPERATION TOWARDS FORMATION FOR MARRIAGE AND THE FAMILY

### ZASADY WSPÓŁDZIAŁANIA PAŃSTWA Z KOŚCIOŁEM NA RZECZ FORMACJI DO ZAWARCIA MAŁŻEŃSTWA I ZAŁOŻENIA RODZINY

Rev. Prof. Dr. habil. Józef Krzywda

The Pontifical University of John Paul II in Kraków, Poland  
e-mail: [jozefkrzywda@misjonarze.pl](mailto:jozefkrzywda@misjonarze.pl); <https://orcid.org/0000-0002-8369-3257>

#### Abstract

The issue of cooperation between the State and the Church for the sake of marriage and families seems, at least at first blush, contains some areas in want of improvement. Indeed, it is assumed here that cooperation between the two subjects of power that is expected to occur in different areas for the good of the family can be, in some respects, either direct or indirect. Indirect cooperation, aimed at the formation of people for marriage and having offspring, should be properly structured and have the proper status. These issues are addressed in part 3 of the paper, point 3.2, “The duty of cooperation between the State and the Church towards formation for married life and the family.” The two preceding parts, “Re-reading the genesis of the institution of marriage and family” and “The need to strengthen the awareness of the value of marriage and the family”, aim to underscore the special role of the Church and the State in the promotion of marriage and the family in the light of requirements for marriage and the family vis-a-vis the teaching of Church and the principles of ecclesiastical and civil law.

**Keywords:** marriage, family, Church, state, formation, cooperation

#### Abstrakt

Temat w brzmieniu: *Zasady współdziałania Państwa z Kościołem na rzecz formacji do zawarcia małżeństwa i założenia rodziny* wydaje się – na pierwszy rzut oka – tematem co najmniej „roszczeniowym”. Autor wychodzi wszakże z założenia, iż współdziałanie, jakie powinno występować między obu podmiotami władzy

na rzecz dobra rodziny może w pewnych obszarach mieć charakter bezpośredniego, w innych, pośredniego współdziałania. Otóż pośrednie współdziałanie Państwa z Kościołem na rzecz formacji do zawarcia małżeństwa i założenia rodziny, winno znaleźć odpowiedni wymiar i swoje właściwe miejsce. Kwestie te stały się przedmiotem refleksji części 3 artykułu, w punkcie sygnowanym 3.2. pod tytułem: *Obowiązek współdziałania Państwa z Kościołem na rzecz formacji do życia w małżeństwie i rodzinie*. Natomiast dwa poprzednie części: 1. *Relektura genezy instytucji małżeństwa i rodziny* oraz 2. *Potrzeba wzmacniania świadomości wartości małżeństwa i rodziny*, mają na celu podkreślenie szczególnej roli Kościoła i Państwa w promocji małżeństwa i rodziny w świetle wymagań stawianych małżeństwu i rodzinie, zgodnie z nauką Kościoła oraz w świetle zasad prawa kościelnego i państwowego.

**Słowa kluczowe:** małżeństwo, rodzina, Kościół, państwo, formacja, współpraca

## Introduction

Marriage and the family that springs from it, having always enjoyed a unique status and importance in the life of societies and nations, is a special object of concern and protection for the Church and the State. The more effectively and efficiently the two institutions perform this crucial role, the greater is the rapport between them: interaction and cooperation, which is required by the positive interrelationship between the two institutions.

As far as the attitude and position of the Church are concerned, whose overarching vocation is to serve man – for his spiritual and moral good and ultimately his salvation – the family becomes the primary and privileged milieu for the Church’s activity. For this reason, the Catechism of the Catholic Church reminds us: “The vocation to marriage is written in the very nature of man and woman as they came from the hand of the Creator.”<sup>1</sup> And while the natural form and dimension of the family, that is, giving birth, and the external institutional forms of its life seem to reduce human life to the purely natural sphere, as the Church teaches in respect of divine revelation: “Marriage is not a purely human institution despite the many variations it may have undergone through the centuries in different cultures, social structures, and spiritual attitudes” (CCC 1603).

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<sup>1</sup> *Catechismus Catholicae Ecclesiae*, Libreria Editrice Vaticana, Città del Vaticano 1997; English text available at: [https://www.vatican.va/archive/ENG0015/\\_\\_\\_P51.HTM](https://www.vatican.va/archive/ENG0015/___P51.HTM) [henceforth: CCC].

In light of the above, the question arises that invariably accompanies the Church and scholars dealing with marriage and family, as well as legislators: Has enough been done for the institution of marriage and the family to occupy an adequate position and the attention proportional to their value and importance? In this paper, our attention and reflection will revolve around these issues, with particular regard to the need for proper formation for marriage and family – both on the part of the Church and the State – in their mutual interaction.

## 1. Re-reading the genesis of the institution of marriage and family

Marriage and the family, like every institutional reality, given their purposeful creation, hence existing and functioning, clearly illustrate such and no other nature and structure, precisely in view of their origins (Genesis 1:27).<sup>2</sup>

One might say that it was fortunate (not coincidental) that this particular subject received a lot of recognition from and was confirmed by Jesus Christ during his conversation with the Pharisees (Matthew 19:3-7). In contemporary times, this issue drew the attention of John Paul II, who examined it with his characteristic intuition and insight, drawing on the teaching of the Second Vatican Council, mainly in: *Familiaris consortio*,<sup>3</sup> *Letter to Families*<sup>4</sup> and *Evangelium vitae*.<sup>5</sup>

### 1.1. Vocation for a life in marriage and the family

How closely and inseparably God joined the act of creating man with his vocation, with his mission and tasks, is demonstrated by His special

<sup>2</sup> Holy Bible, New International Version (Biblica, 2011). Available at: [www.biblegateway.com](http://www.biblegateway.com).

<sup>3</sup> Ioannes Paulus PP. II, Adhortatio apostolica *Familiaris consortio* de familiae christianae muneribus in mundo huius temporis (22.11.1981), AAS 74 (1982), p. 81-191; English text available at: [https://www.vatican.va/content/john-paul-ii/en/apost\\_exhortations/documents/hf\\_jp-ii\\_exh\\_19811122\\_familiaris-consortio.html](https://www.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_19811122_familiaris-consortio.html) [henceforth: FC].

<sup>4</sup> John Paul II, *Letter to Families* (02.02.1994), [https://www.vatican.va/content/john-paul-ii/en/letters/1994/documents/hf\\_jp-ii\\_let\\_02021994\\_families.html](https://www.vatican.va/content/john-paul-ii/en/letters/1994/documents/hf_jp-ii_let_02021994_families.html) [henceforth: LF].

<sup>5</sup> Ioannes Paulus PP. II, Litterae encyclicae de vitae humanae inviolabili bono *Evangelium vitae* (25.03.1995), AAS 87 (1995), p. 401-522; English text available at: [https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_25031995\\_evangelium-vitae.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html) [henceforth: EV].

blessing, addressed to the first human beings: “Be fruitful and increase in number; fill the earth and subdue it” (Genesis 1:28).

In his explanation of this fundamental truth, referring to the Vatican II’s teaching,<sup>6</sup> John Paul II stressed: “To defend and promote life, to show reverence and love for it, is a task which God entrusts to every man, calling him as his living image to share in his own lordship over the world” (EV 42). These issues, as mentioned earlier, the Pope discussed at length and depth in FC 11 and LR, addressed specifically to spouses and families.

Referring in the aforementioned documents to the teaching of the Second Vatican Council, John Paul II, himself its active participant, noted with anxiety: “Our era needs such wisdom more than bygone ages if the discoveries made by man are to be further humanized. For the future of the world stands in peril unless wiser people are forthcoming” (FC 8). “Modern culture must be led to a more profoundly restored covenant with divine Wisdom. Every man is given a share of such Wisdom through the creating action of God. And it is only in faithfulness to this covenant that the families of today will be in a position to influence positively the building of a more just and fraternal world” (FC 8). In addition, it is worth noting that these momentous remarks, especially those in the FC, echoed significantly the *Charter of the Rights of the Family*,<sup>7</sup> announced a year earlier by the Holy See to all people, institutions and authorities, who were interested in the mission of the family in the modern world, which in turn, two years later, was sanctioned by the legislation of the Code of Canon Law.<sup>8</sup>

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<sup>6</sup> Sacrosanctum Concilium Oecumenicum Vaticanum II, *Constitutio pastoralis de Ecclesia in mundo huius temporis Gaudium et spes* (07.12.1965), AAS 58 (1966), p. 1025-115 [henceforth: GS], no. 51.

<sup>7</sup> Pontifical Council for the Family, *Charter of the Rights of the Family* (22.10.1983); published in Italian in: *Enchiridion della Famiglia. Documenti Magisteriali e Pastoralis su Famiglia e Vita 1965-2004*, ed. Pontificio Consiglio per la Famiglia, EDB, Bologna 2004, p. 1489-506; Polish translation in: *Karta Praw Rodziny*, Wydawnictwo Wrocławskiej Księgarni Archidiecezjalnej TUM, Wrocław 1994; English text available at: [https://www.vatican.va/roman\\_curia/pontifical\\_councils/family/documents/rc\\_pc\\_family\\_doc\\_19831022\\_family-rights\\_en.html](https://www.vatican.va/roman_curia/pontifical_councils/family/documents/rc_pc_family_doc_19831022_family-rights_en.html) [henceforth: Charter].

<sup>8</sup> *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (25.01.1983), AAS 75 (1983), pars II, p. 1-317; English text available at: [https://www.vatican.va/archive/cod-iuris-canonici/cic\\_index\\_en.html](https://www.vatican.va/archive/cod-iuris-canonici/cic_index_en.html) [henceforth: CIC/83]; legal state as of 18 May 2022; Canons 1055 § 1 and 1057 § 1-2.

## 1.2. The right and duty of spouses to establish a family

It should be noted in this context that the new designation given to marriage, *matrimoniale foedus* (marriage covenant),<sup>9</sup> is a close reference to the first Covenant, made by God with the first human being – man and woman – in the act of creation of the first humans. In other words: God, in creating man, by the same act created a marriage covenant: a covenant with himself and a covenant of the first people with each other.<sup>10</sup> So, both accounts of how the first humans were created, especially the second (in the second chapter of *Genesis*), indicate that “man and woman were created for one another [...]: ‘So they are no longer two, but one flesh’ [Mt 19:6]” (CCC 1605). In turn, this unique fact created a situation obliging both of them to carry out God’s decision. “That is why a man leaves his father and mother and is united to his wife, and they become one flesh” (Genesis 2:24). So, one might say that God, in the act of creating man – both a male and a female – in his image and likeness, he called into existence the family.

This truth was highlighted profoundly by the Second Vatican Council in these words: “For, God Himself is the author of matrimony, endowed as it is with various benefits and purposes. All of these have a very decisive bearing on the continuation of the human race, on the personal development and eternal destiny of the individual members of a family, and on the dignity, stability, peace and prosperity of the family itself and of human society as a whole” (GS 48). Thus, the following was added: “[...] the very institution of marriage and conjugal love are ordained to the procreation and education of children, in whom they find their crowning” (FC 14).<sup>11</sup>

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<sup>9</sup> 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 baptisatos evectum est.*”

<sup>10</sup> “So God created mankind in his own image, in the image of God he created them; male and female he created them (Genesis 1:27). See also Genesis 2:22-24. See also Chiappetta 1990, 9-15; Styczeń 1981, 19-29.

<sup>11</sup> Cf. International Theological Commission, *Proposition on the Doctrine of Christian Marriage* (1977); English text available at: [https://www.vatican.va/roman\\_curia/congregations/cfaith/cti\\_documents/rc\\_cti\\_1977\\_sacramento-matrimonio\\_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_cti_1977_sacramento-matrimonio_en.html). See also Scola 2000, 70-76; Corecco 1990, 185-93; Góralski 2006, 25-31; Pawluk 1996, 20-21.

## **2. The need to strengthen the awareness of the value of marriage and the family**

The formulation of the second part was dictated by a unique title preceding the provisions related to marriage law currently in force. Title VII, “Marriage,” and some introductory canons on the institution of marriage, are followed by chapter 1 titled “Pastoral care and those things which must precede the celebration of marriage” (Canon 1063). Significantly, of ten canons (1063-1072), the norm of Canon 1063 was dedicated to special pastoral care for preparation for marriage; thus, in the long run, for starting a family. At this point, it should be noted that, *for the first time*, the legislator – so clearly – when specifying the forms and ways of preparing for marriage, imposes a strict obligation on pastors to “take care that their ecclesiastical community offers the Christian faithful the assistance by which the matrimonial state is preserved in a Christian spirit and advances in perfection” (Canon 1063), which we shall elaborate on in what follows.

### **2.1. The Church’s role in raising awareness of the value of marriage and the family**

The extensive wording of Canon 1063 (four points) lays down directives and indications, imposing the obligation, as already mentioned, to organize pastoral forms of assistance, with the aim of preparing for marriage; in a further perspective, to establish a family (Canon 1063). The four points are preceded by a crucial observation that “pastors of souls are obliged to take care that their ecclesiastical community offers the Christian faithful the assistance by which the matrimonial state is preserved in a Christian spirit and advances in perfection” (Canon 1063). And since the first, proper ecclesiastical community in a particular Church is a parish entrusted to a pastor as its proper shepherd (Canon 515 § 1); he – as the first among other presbyters – in under the obligation to care for his parish, which is spelled out in detail in Canon 528.<sup>12</sup> The Church, drawing knowledge from experience, authoritatively states how important this duty is, saying that through the assistance of the “ecclesiastical community” “the matrimonial state is preserved in a Christian spirit and advances in perfection” (Canon 1063). How this assistance should be organized is splendidly suggested by,

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<sup>12</sup> See also Canon 529 § 1-2.

among others, the prominent canonist Luigi Chiappetta, who, commenting on the aforementioned dispositions of Canon 1063, refers directly to John Paul II's indications taken from FC 70 [Chiappetta 1990, 63-69].<sup>13</sup> In contrast, the institutional organisation of such assistance is entrusted to the local ordinary, who is expected to hear "men and women proven by experience and expertise if it seems opportune" (Canon 1064).<sup>14</sup> However, it should be noted that the above wording of the norm may seem somewhat surprising, since the Council (GS 52) and the teaching of John Paul II attribute a great deal of importance to cooperation with the lay faithful, especially on issues related to marriage and the family (FC 75).

## **2.2. The need for the State's more active involvement in shaping public awareness of the value of marriage and the family**

The need (or, necessity) for a more active contribution of the State in the process of shaping the awareness of the value of marriage and the family becomes not only advisable, but rather urgent in the reality of today. For if, on the one hand, we take into account the value and importance of the institution of marriage and the family (GS 48; FC 3, 14-15; FGC; LF), on the other hand, the serious threats and the difficult condition of many marriages and families, as pointed out by Vatican II (GS 47), one cannot uncritically accept the current position of public authorities towards marriage and the family. Of importance are only legal regulations: the current provisions of the Polish Constitution,<sup>15</sup> their elaboration in the provisions of the Family and Guardianship Code<sup>16</sup> and in other normative acts governing institutions designed to support marriage and the family.

Such important issues and problems can, inevitably, be touched upon briefly here, but to illustrate, let us recall the opinion of an outstanding

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<sup>13</sup> See also FC 71-75.

<sup>14</sup> See also Canon 226 § 1, 228 § 1-2, 229 § 1-3; John Paul II, *Adhortatio apostolica post-synodalis de vocatione et missione laicorum in Ecclesia et in mundo Christifideles laici* (30.12.1988), AAS 81 (1989), p. 393-521; English text available at: [https://www.vatican.va/content/john-paul-ii/en/apost\\_exhortations/documents/hf\\_jp-ii\\_exh\\_30121988\\_christifideles-laici.html](https://www.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_30121988_christifideles-laici.html); no. 26.

<sup>15</sup> Constitution of the Republic of Poland of 2 April 1997, Journal of Laws No. 78, item 483, as amended [henceforth: Constitution].

<sup>16</sup> Act of 25 February 1964 – The Family and Guardianship Code, Journal of Laws No. 1964, No. 9, item 59 as amended. (henceforth: FGC).

expert on the subject, Jan Winiarz: “The FGC provisions do not define the institution of marriage. They are not preceded by a preamble, either, to define the basic aims of the regulations, nor are the basic principles of family law highlighted in the introductory provisions, as is done in some legislation of other countries. This is because these basic principles are expressed directly in the Constitution, and they are elaborated in the provisions of the FGC and other normative acts” [Winiarz 1996, 39].

It is over 40 years since the Holy See promulgated the famous Charter on the Rights of the Family, drawn up at the request of the Synod of Bishops, at the behest of Pope John Paul II, which “[...] is addressed primarily to governments” (Charter, Introduction). “Acknowledging – for the good of society – the universal awareness of the fundamental rights of the family, the ‘Charter’ provides all those who share responsibility for the common good with a model and a reference point for the development of family legislation and policy, and a direction for programmes of action” (Charter, p. 5). The embodiment of the above thought in the introduction is, notwithstanding the numerous allusions in other articles, Article 3 of the Charter.

### **3. Cooperation of the Church and the State in the process of formation for marriage and the family**

This part contains a proposal of some kind, resulting from the reflections presented in the two preceding parts, suggesting a desirable interaction between the two actors, the Church and the State, for the sake of the family and marriage. It follows there is apparently a greater, urgent and real need (or rather, necessity) for closer cooperation (indeed, cooperation) between the Church and the State for more effective protection, defence, and consequently creation of favourable conditions for the development of marriage and the family: for their own well-being, for the good of the Church, and ultimately for the nation and the State. For all these institutions and communities, their fate, their effective and fruitful functioning, depend on the dynamics and strength of marriage and the family.

#### **3.1. The scope and nature of formation for marriage and the family in the Church**

Referring to the content of paragraph 2.1., it is necessary to pay more attention, as envisioned by the legislator, to the provision of Canon 1063,



whose four detailed dispositions outline the successive stages of provision of pastoral assistance to the faithful in their preparation for marriage and, in the longer term, for setting up a family. It should also be noted, very importantly, that this pastoral care, prescribed by the legislator, is of an obligatory character (Canon 1063). More than that, we can say that “despite the formally unoppressive” formulation of the norm, its content contains elements of an “imperative” character [my emphasis], as suggested by the teaching of the Second Vatican Council,<sup>17</sup> significantly enhanced by the explanations and indications of Pope John Paul II (FC 66-67).<sup>18</sup>

### **3.2. The duty of cooperation between the State and the Church towards formation for married life and the family**

Considering the place, significance and role of the family in the nation’s social life, we can address to the public authorities of the State (at all levels), if not a postulate, then a clear-cut demand for a definition of specific forms of cooperation with the Church vis-a-vis their duty of care for formation towards a life in marriage and the family.

In this connection, it is worth referring to, important as it is, this provision of the Constitution: “We call upon all those who will apply this Constitution for the good of the Third Republic *to do so paying respect to the inherent dignity of the person, his or her right to freedom, the obligation of solidarity with others* [...]” [my emphasis] (Constitution, Preamble).

The constitutional principle formulated in this way entitles one to expect State authorities to support the Church in its concern for people’s formation for marriage and family life.<sup>19</sup>

After all, it should be noted that chapter 2 of the FGC titled “Relations between Parents and Children” (Articles 87-113), which defines parental

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<sup>17</sup> “Public authority should regard it as a sacred duty to recognize, protect and promote their authentic nature, to shield public morality and to favour the prosperity of home life. The right of parents to beget and educate their children in the bosom of the family must be safeguarded. Children too who unhappily lack the blessing of a family should be protected by prudent legislation and various undertakings and assisted by the help they need” (GS 52).

<sup>18</sup> Chiappetta 1990, 63-66.

<sup>19</sup> Article 18 of the Constitution merely states: “Marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland.”

authority, is significantly convergent with the principles of the 1983 Code of Canon Law (Canon 1134-1140). We can, therefore, objectively state that there appears to be (given the considerable overlap of the two legal orders) a platform, and therefore the need for cooperation between the State and the Church, for formation and education of offspring. Thus, it can be said that the FGC is a special manifestation of the State's concern for the protection and defence of marriage and the family (except for Articles 56 § 2-3, 57 § 1-2, 58 § 1-4). These issues are analysed in great detail by Józef Krukowski in his article "Małżeństwo fundamentem rodziny. Wprowadzenie do problematyki" (Marriage as the foundation of the family: An introduction) [Krukowski 2017, 7-22].

Concluding this issue, covered here as briefly as it is, it is pertinent to highlight, in the context of the issue at hand, an important and fundamental quality of marriage – emphasised by Winiarz, an above-mentioned author: "The principle of permanence of marriage, although not stated expressly in the Constitution or in the provisions of the Family and Guardianship Code, can be inferred from the totality of those provisions" [Winiarz 1996, 44-45].<sup>20</sup>

## **Conclusion**

The multi-layered and complex topic, discussed very briefly and not conclusively here, should, it seems, be researched more extensively and in greater detail, especially the themes presented in parts 1 and 2 of the paper. They should be shown in the context of the supposedly "competitive" trends that are ever more boldly manifested in some communities and milieus. These are so-called informal unions or homosexual unions, which – alas! – aspire to be "equivalent" to marriage. And this, one might say, might qualify as an attempt to "assassinate" the natural, sacred institution of marriage, which has always been the foundation of the social life of the Church and the nation – and the human race, too. It is, then, beyond question that both realities, the institution of marriage and the family founded upon it, require urgent and attentive protection and, should they be threatened, adequate defence. The matter certainly becomes extremely relevant if the two institutions – the Church and the State – cooperate in this regard in concert and solidarity.

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<sup>20</sup> See also: Chiappetta 1990, 26-27; Pawluk 1996, 46-48, 210-17; Góralski 2006, 248-56.

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